NEW SERIES—No. 15.

SELECTIONS FROM THE RECORDS

OF THE OFFICE OF THE

FINANCIAL COMMISSIONER, PUNJAB.

Published by Authority.

No. 41.

CONTENTS.

Lahore:
THE "CIVIL AND MILITARY GAZETTE" PRESS,
Contractors to the Punjab Government.

1892.

SELECTIONS FROM THE RECORDS

OF THE

FINANCIAL COMMISSIONER'S OFFICE, No. 41.

No. LXIX.-CORRESPONDENCE RELATING TO THE RIVER BOUNDARY OF LAHORE AND FEROZEPORE ALONG THE SUTLEJ.

Extract paras. 2 and 7 to 10 of a letter No. 500, dated 24th July 1852, from G. F. EDMONSTONE, Esquire, to P. MELVILL, Esquire.

2. This letter discusses two measures which Mr. Brandreth is anxious, in the course of the settlement operations in which he is engaged, to introduce in all villages bordering on the Sutlej; the one is the annual adjustment of the Government revenue on all lands liable to inundation by the periodical rising of the river; the other is ther ecognition of a prior claim on the part of zamíndárs losing their lands on one side of the river to newly-formed lands on the other.

* * * * * * * * *

7. I am much more doubtful about the expediency of Mr. Brandreth's second proposition, *viz.*, to give to zamíndárs losing land on one side of the river a preferential claim to newly-formed lands on the other side. According to the kachmach law, I believe, the Government rights only changed with the change in the course of the stream, the proprietory right remaining undisturbed; and this law appears to me to meet those cases in which the river, by a sudden change of its course or by the violence of its stream, may separate a piece of land from one estate and join it to another estate without destroying the identity and preventing the recognition of the land so removed, at least it meets those cases in so far as the rights of the *proprietors* are concerned; but it may be a question whether, in the case supposed by Mr. Brandreth of such land becoming attached to the estate of a jágírdár, the Government would consent to forego its revenue. There are, however, many other cases for which the kachmach law would not provide, as for instance when the river has encroached on the left bank and has deserted the right, leaving newly-formed land *not* susceptible of identification or recognition, being land in all probability which, before the change of the river's course, formed part of the ordinary channel, and to which the zamíndárs of the left bank can assert no other claim than that they have lost land on their side corresponding with accession on the other.

8. Regulation XI of 1825 is the only enactment, so far as I am aware, which touches on this subject. It provides in substance that disputes regarding alluvial increment and decrement shall be determined by definite and immemorial usage, wherever such shall be clearly recognized and established; that, where no such usage may be established, lands gained by gradual accession shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed; and that land separated from one estate and joined to another without any gradual encroachment, by a change in the river's course or by violence of the stream, shall still remain the property of its original owner, provided that the identity of the land so removed shall not have been destroyed, and the recognition of it be still possible.

9. This law has been in force for 27 years in Bengal and the North-Western Provinces, and would, I presume, be acted upon in cases where the parties concerned are subjects of different Governments, as, for example, in the district of Cawnpore, some part of which is divided by the Ganges from the Oudh territory: the zamíndárs losing lands on the one side would hardly be held entitled to newly-formed lands on the former or, if they were, would be unable to enforce their title. Here the case is so far different that the territory on both sides of the Sutlej, as far as the Ferozepore district extends at least, is under the British Government, and the preferential claim which Mr. Brandreth desires to reserve to the losing zamíndárs might perhaps be enforced; but I doubt very much

whether the difficulties would not be out of all proportion to the advantages which are expected to be gained, and I doubt whether in the end any advantage whatever would accrue to the people. I think it would be much better to follow the principles laid down in the regulation above cited, which seem to be as applicable to the Sutlej as to any other river, to dispose of all cases that may arise on their own merits agreeably to those principles, and to annually adjust the revenue on lands liable to inundation, as above proposed, without disturbing the arrangements made at the time of settlement for the high lands beyond the flood line. The "uncertainty of tenure" to which Mr. Brandreth alludes will be, so far as circumstances admit, remedied by this annual adjustment. If a village is bodily cut off without the identity of the lands being destroyed by the violence of the streams from one bank and joined to the other, the proprietory right will remain undisturbed, and the rent-roll only of the districts on either side will be affected; and if in one year the zamíndárs on the right bank lose land by encroachment of the river, they will obtain a remission of so much revenue, and may live in hope of an increment the next year. It does not seem to me possible to render that description of property certain and stable which by its very position and by the action of natural causes must be uncertain.

10. The only question upon which I have still to express an opinion is whether a jágírdár should be held entitled to land transferred by the action of the river from a khálsa village (say) on the right bank to his own estate lying on the left. I see no reason why the principle of the Regulation cited should not be applied to these as well as to all other cases, and I should say, in answer to Mr. Brandreth's enquiry, that if the land so gained were capable of recognition, the ownership and "hákimi" right or right to the revenue would remain undisturbed,—that is, the zamíndárs of the khálsa village would retain the proprietory right and continue to pay revenue to the British Government; but that, if the land were gained by gradual accession, it should be considered an increment to the tenure of the jágírdár to whose estate it thus becomes annexed. There ceases, under this principle, to be any difficulty in dealing with the cases (as put forward in para. 9 of Mr. Brandreth's letter) of Sardár Káhn Singh's islands, or of any islands possessed by the British Government, being in its relative position altered by a change in the course of the river. Were the Sutlej to separate Khan Singh's islands from the Kasúr side, their identity not being destroyed, he would still continue proprietor of the revenue, and the lands thus annexed to Ferozepore would become subject to the jurisdiction of that district; and if the island in the possession of Government happened by a change in the river to be brought "rather nearer to a jágírdár's estate," the Government would still retain the "hákimi" right to revenue, because the identity of the land would not be destroyed, and it would also retain jurisdiction, because the jágírdár has not independent internal jurisdiction. The case might be different were an independent State in the place of the jágírdár, the case would then be similar to those which may have arisen in the Cawnpore district of lands cut off without loss of identity from the Cawnpore side, and so joined to the Oudh territory; and the Board may probably know how such cases have been dealt with under the Regulation that I have cited. It makes no specific provision on the subject, but, according to the practice of this part of the country, the jurisdiction and right to revenue would go over to the independent State. The case of "Doonah Shukroo" opposite "Mamdote" was disposed of on this principle last year in communication with Mr. Montgomery, then Commissioner of the Lahore Division. I note the numbers and dates* of the letters, that the Board, if they wish to look at them, may obtain them from the Commissioner's office at Lahore.

* To Commissioner, Lahore, No. 1097, dated 21st May 1850.
From Do. No. 272, dated 4th July 1850.
From Do. No. 388, dated 28th August 1850.
Subsequent letters calling attention to former requisition.
From Commissioner, Lahore, No. 9, dated 5th January 1852, deciding the case.

Extract paras. 7 to 9 of a letter No. 39, dated 6th July 1852, from the Deputy Commissioner, Ferozepore, to the Commissioner and Superintendent, Cis-Sutlej States.

7. My second proposition is of a more extended nature; it affects the interests of other districts as well as this. I propose that zamíndárs losing land on

one side of the river should be permitted to transfer their zamíndári rights to land newly-formed on the other. They would of course pay revenue in the district to which the land properly belonged, either holding the land under a separate name or not, as its quantity and the circumstances of the case might render necessary. The inhabitants in the river villages are, as I have said before, wretchedly poor though possessing the most productive lands in the districts. This, I believe, is partly to be attributed to their belonging to castes not generally esteemed good cultivators, but principally, I believe, it is owing to the uncertainty of their tenure, and their being a prey on all occasions to wanton incursions of the river. For instance, not a year passes without some villages being entirely, or almost entirely, swept away: the inhabitants are then dispersed without any hope among the neighbouring villages. It very seldom, however, happens that the land is washed away on one side without a corresponding addition being made on the other. If then the people thus circumstanced were admitted to a prior claim on the newly-formed land, whether it were situated on the opposite side or in a neighbouring village on the same side of the river, a degree of permanency would be attached to their position by which their circumstances would be very much ameliorated. Some rules of detail would of course have to be laid down, but, if the principle here proposed were recognized, these might be determined with little trouble.

8. Part of this district is opposite the Jullundur shore, but, all below the junction of the Beás with the Sutlej, it is confronted by the district of Lahore. As regards my proposition for the relief of zamíndárs who lose their lands, by giving them an equivalent when it can be obtained on the opposite shore, there might be some difficulty in carrying it out in the Jullundur district, the settlement of that district having been completed and other arrangements perhaps opposed to mine being in force; but with Lahore a system of mutual interchange might, I think, be accomplished without difficulty and with great advantage to the zamíndárs on both sides.

9. There is nothing in the rule kachmach which at all meets what is here sought for. The old law must, I imagine, become a dead letter. It was very well suited to the necessities of the times in which it was framed, when there were opposing jurisdictions on each side of the river, and where any maintenance of authority over land which had been completely cut off by the river from the side to which it formerly belonged would have been difficult and likely to produce constant disputes. I have no other knowledge of the rule of kachmach than what I gather from a rubkári of Colonel Mackeson's dated 13th June 1846, which was circulated for the information of the different officers in his division, and which was accompanied by a copy of a letter from General Ochterlony to Sardár Budh Singh Faizullapuria, on which was founded the rule that of two streams the deeper should be considered the machasim boundary, and that an island situated between them should be transferred with the "hákimi" rights to the side where there was the shallower streams, the zamíndár's rights, however, remaining undisturbed. Even if this rule were made applicable as between a district belonging to the British Government and a native sovereign State, I do not imagine it would for a moment be put in force between two British districts, as for instance that the islands lately made over to Sardár Káhn Singh Atáriwála would be taken away from him now because they appear to have been separated from the rest of his possessions on the Kasúr side by the stream having set with greater force on that side, or that the Government would consent to make over any island in its possession to a jágírdár because any change in the river happened to bring it rather nearer to his estate.

As between one khálsa village and another, each case would be decided on its own particular merits, quite independent of any rule of kachmach. As a general rule, any small portion of land being only part of a village and with no habitation upon it, even though the stream should become deeper between it and the main village, had better remain attached to the district where the zamíndárs who cultivate it reside. If it were so far removed as by the entire drying up of the opposite stream to become geographically a part of the opposite side, it would probably be better to transfer it. The only question of the

solution of which I have any doubt is whether, if a piece of a land so situated were to become contiguous to a jágírdár's village, he would be entitled to it or not.

Extract para. 6 of a letter No. 2622, dated 18th August 1852, from the Secretary to Board of Administration to the Commissioner and Superintendent, Cis-Sutlej States.

6. As regards the second measure which Mr. Brandreth advocates, the Board remark that it is undoubtedly, in the abstract, consonant with justice that proprietors losing their land on one side of a river which comes up on the other should recover their right, but that practically there are great difficulties in carrying out the principle. The law is as you quote. When the land is carried bodily across a river, so that its physical features are recognizable, the right of property continues; but where that is not the case, the right ceases and is transferred to the owners of the villages adjacent to which the newly-formed land turns up. With regard to jágír lands in independent jágírs, the Government share should follow the same course: in dependent jágírs and rent-free lands the right of the holders and of Government should not change.

Extract paras. 1 to 4 of a letter No. 110, dated 17th March 1856, from J. Clarke, Esquire, Officiating Commissioner and Superintendent, Lahore Division, to D. F. McLeod, Esquire, Financial Commissioner, Punjab.

1. I have the honor to submit the correspondence in original, noted at the end of this letter, respecting the district boundaries of Zillahs Lahore and Ferozepore, the determination of which is urgently called for by the Settlement Officer of Lahore.

2. I myself can see no good reason for determining that the channel stream of a river whose course is constantly shifting should form a district boundary. I consider it would be much more judicious to fix a line not subject to the action of a river. I can make no specific proposal, but I state the principle.

3. If this were adopted, then the questions remaining for consideration would be simplified, and in my opinion the ordinary rule of kachmach, or "Sikandri hadd," will resolve them satisfactorily.

4. It appears that Mr. Campbell's proposal is really an expedient to maintain a fixed boundary for a term of years on an artificial line.

Memo. of correspondence sent up in original regarding the district boundary of Zillahs Lahore and Ferozepore.

No.	From	To	No.	Date.	Abstract of contents.
1	Settlement Officer, Lahore.	Commissioner, Lahore.	18	10th Nov. 1854 ...	Paras. 4 and 5.—States that the rule on the Sutlej is that the river is the boundary both of the property of individuals and of the district. Where islands exist, the deepest channel is considered the river. Submits a sketch map of three islands on the Sutlej belonging to Kasúr. Considers the rule of "kachmach" to be the most practical and in accordance with the custom of the country. Proposes that the boundary between the two districts be defined by the deep stream of the river, and the rights of property in the island be determined by the provisions of Act XI of 1825. The islands in question will thus be transferred to Ferozepore.
2	Commissioner, Lahore.	Settlement Officer, Lahore.	573	23rd Nov. 1854 ...	Para. 7.—States that he agrees to his suggestions, and so does the Financial Commissioner, but before taking any further steps he has communicated with the Commissioner, Cis-Sutlej, and will inform him of his reply.

Memo. of correspondence sent up in original regarding the district boundary of Zillahs Lahore and Ferozepore—concluded.

No.	From	To	No.	Date.	Abstract of contents.
3	Commissioner, Lahore.	Commissioner, Cis-Sutlej.	569	22nd Nov. 1854 ...	Forwards extract (paras. 4 and 5) from letter No. 18, dated 10th November 1854, from Settlement Officer, Lahore, relative to the demarcation of the boundary between Lahore and Ferozepore. Requests his opinion on the subject, and states that he himself and the Financial Commissioner have no objection to the Settlement Officer's proposal.
4	Commissioner, Cis-Sutlej.	Commissioner, Lahore.	2187	22nd Dec. 1854 ...	In reply, forwards copy of a letter from the Deputy Commissioner, Ferozepore, suggesting that the course of the river be watched for another year before any alteration of jurisdiction be made, and conveying remarks on the three Sutlej islands.
5	Commissioner, Lahore.	Settlement Officer, Lahore.	8	7th Jany. 1855 ...	Forwards copy of above, and requests report on the points therein noticed.
6	Settlement Officer	Commissioner, Lahore.	13	8th March 1855 ...	Submits the report called for, and states that his opinion in regard to the transfer of the islands to Ferozepore is still unchanged.
7	Commissioner, Lahore.	Settlement Officer,	218	27th April 1885 ...	In reply, states that though the general principle of "kachmach" is allowed, yet in this particular case it is desirable to meet the wishes of the Commissioner, Cis-Sutlej.
8	Deputy Surveyor-General.	Commissioner, Lahore.	269	22nd Nov. 1855 ...	Paras. 2 and 3.—Not having received any map defining the true limit of the entire line of the Lahore district, and understanding from the Assistant Revenue Surveyor that the southern boundary on the river Sutlej is liable to a change, requests to know whether any changes are contemplated or likely to take place.
9	Commissioner, Lahore.	Settlement Officer,	532	8th Dec. 1855 ...	Forwards copy of above letter, and calls for the information required by the Deputy Surveyor-General.
10	Settlement Officer	Commissioner, Lahore.	62	28th Dec. 1855 ...	In reply, states that with reference to the wish expressed by the Commissioner, Cis-Sutlej, in his letter No. 2187, dated 22nd December 1854 (*see* No. 4 above), that another year should be allowed to elapse before changes of jurisdiction were made, he informed the Revenue Surveyor that changes were expected. Now that the deep stream of the Sutlej is still to the north of the islands in question, proposes their transfer from the Lahore to the Ferozepore district, and conveys further remarks on the islands.
11	Commissioner, Lahore.	Commissioner, Cis-Sutlej.	2	4th Jany. 1856 ...	Forwards copy of above, agrees with Mr. R. E. Egerton's proposal as regards the transfer of the islands, and requests he will have it carried out if there be no objection on his part.
12	Commissioner, Cis-Sutlej.	Commissioner, Lahore.	21	5th Jany. 1856 ...	In reply, remarks, with reference to the changeable nature of the course of the river Sutlej, that if the rule of "kachmach" were maintained, continual transfers and retransfers of large tracts of country must be expected. Therefore suggests a reference once more of the question for a general and final decision.
13	......	.....	...	......	Memo. by Mr. R. E. Egerton, Settlement Officer, Lahore, on the Sutlej boundary, dated 5th February 1856.

Extract paras. 2 to 7 of a letter No. 1691, dated 17th May 1856, from D. F. McLeod, Esquire, Financial Commissioner, Punjab, to Major Clarke, Officiating Commissioner and Superintendent, Lahore Division.

2. Mr.—has not, I think, kept sufficiently in view the distinction between land which has been submerged and cut away, causing a corresponding deposit on the opposite bank or elsewhere, and land which has not been thus obliterated, but merely separated from lands to which it had previously been contiguous by the intervention of a stream.

3. In the former case, it is undoubtedly the usage to consider all land thus newly thrown up as belonging to the village with which it is in juxtaposition, and the rule of "kachmach" in such cases provides that all land on either side of the deep stream (wherever that may flow in the midst of the alluvion) shall belong to the villages on that side.

4. But in the latter case—that is, where land is merely separated by the intervention of a stream from that with which it has been previously connected—I know of no law or usage which could justify us in regarding a transfer of proprietory right as the result of such separation, and I feel sure that in every part of the Punjab, as elsewhere, any portions of a village so cut off continue to be regarded as an integral portion of that village, and that the principle enunciated in the letter of the Secretary, No. 918, dated 5th November 1855, quoted by Mr. Campbell, is applicable everywhere, *i. e.*, that every such portion of a village will appertain to the jurisdiction within which the most important part of it is situated.

5. As respects the general question of jurisdiction to which the present discussion mainly refers, there can be no doubt, in respect to the tracts lying along the Sutlej, that where lands are newly recovered from under the bed of the river, so that their identity with any area previously existing cannot be established, the rules of "kachmach" should be followed, that is, that such lands up to the deepest channel of the river, where there may be more than one channel, will appertain, as regards both proprietorship and jurisdiction, to the adjacent territory on the same bank of the stream. This, I am inclined to think, will hold good everywhere, more or less, throughout the Punjab; but at all events along the Sutlej, there can be no doubt upon the subject.

6. Where, however, the river changes its course in such a manner as to leave, between its old and new channel, a tract which remains unsubmerged, or which at all events does not become materially changed and can be perfectly identified, I quite agree with Mr. Campbell and yourself in thinking that, so long as the tract in question remains an island, the fact of one of the channels being deeper than the other is comparatively unimportant, and that the inconvenience which would result if the jurisdiction of such tract were to be changed with every alteration in the relative depth of the two streams would be too great to be counterbalanced by any advantages which could result from adopting that measure.

7. I am clearly of opinion, therefore, that the jurisdiction of the villages to which this correspondence chiefly relates should not be altered, until either one of the channels shall have entirely dried up or serious inconvenience shall, from any other cause, have been found to result from the existing arrangements being maintained, when special sanction for the transfer should be solicited, with reference to the particular grounds which appear to render it advisable.

B.—Mr. CUST'S CODE OF RIVER LAW.

No. 384, dated 6th December 1859.

From—Major E. Lake, Commissioner and Superintendent, Trans-Sutlej States,

To—A. A. Roberts, Esquire, Financial Commissioner, Punjab.

During the last eighteen months four distinct cases have come under my notice in connection with alluvial increment and decrement, and from the correspondence which has passed, herewith submitted in original for your perusal, it will be apparent to you that there is a considerable difference of opinion as to the principles upon which such cases should be decided, and that there is still greater diversity of practice in disposing of such lands. I feel

I owe some apologies for not referring the matter before, but the truth was I hoped to visit some of the localities referred to in the correspondence, but as this is no longer possible, I will delay no longer bringing the matter under your consideration.

2. Before entering into the particulars of each case, I may observe that much confusion is caused by losing sight of the fact that two distinct questions arise regarding all lands affected by the action of a river; the first is the jurisdiction of such lands, and, secondly, the proprietory right.

3. As regards the latter, the principle was clearly laid down by Mr. Edmonstone in a letter, No. 500, dated Kasauli, 24th July 1852, to the Secretary to the Board of Administration, from, which the following is an extract:—(*Para.* 8 *of letter on page* 1199 *quoted*).

4. As regards jurisdiction, there is one, and only one, safe rule to follow—that the main stream shall be the absolute boundary of opposite jurisdictions. Cases have arisen in which, for convenience sake, this rule has been held in abeyance; and in other instances the difficulty of deciding which was the main stream of a river running in two channels has led to an arrangement apparently militating against the rule. But these, after all, are only exceptions to a general rule established by precedent, by time-honoured custom, and by public voice. A very little reflection will convince any one that, if the rule did not exist, sound policy requires its adoption, for where the stream is accepted as the boundary by universal assent, no dispute can arise. The river, to use figurative language, not only decides the boundary but carries its own decree into execution; whereas if the settlement boundary or any other is adopted, it requires time to bring together the officials of two different jurisdictions, and still more to get them to agree. After this to lay down the settlement boundary for any distance involves considerable labour and a certain amount of scientific measurement. In the interval not only does the season for sowing the ground pass away, but if the land is worth anything, both parties consider it necessary to establish their claims by fighting over it. As regards jurisdiction, therefore, I not only uphold the custom of "kachmach" or deep-water boundary because it is an old custom hallowed by prescription in the eyes of the people, but also because its tendency is to put a stop to bloodshed and affray.

It only remains for me now to refer to the correspondence which has given rise to these remarks. The first is a claim by the Rája of Kapurthala to certain lands on the Beás. By referring to the letter marginally noted, you will observe that the Commissioner of Amritsar considers that the claim is untenable, both as regards jurisdiction and proprietory rights. Until some trustworthy official visits the locality and actually sees the land claimed by the Kapurthala Chief, one cannot feel satisfied that it is the same plot described by Mr. Cooper and referred to by Mr. Cust in his letter. This much I can say, that one small plot of land claimed by the Rája I visited myself in 1858; it was clearly situated on the left bank of the river with no intervening channel, the identity of some portion of the land had not been destroyed, consequently the proprietory rights should not be disturbed; but by the custom of the country the jurisdiction and the Government revenue unquestionably belong to Kapurthala. Where an independent prince is on one bank of the river and we ourselves are on the other, there are still stronger arguments than those adduced by me in paragraph 4 for maintaining the deep-water boundary; and I trust you will see fit to lay down this principle for the decision of all disputes which may arise on the Lower Beás between the Amritsar and Kapurthala authorities.

No. 372, dated 24th August 1858, from Commissioner, Lahore Division, and enclosures.

6. I have next to draw your attention to the practice which prevails in the upper portion of the Beás river, and which is very fully described in Mr. Simson's letter No. 705—1514, dated 10th December 1858, to which I would refer you. It will be observed that there the deep-water boundary not only determines jurisdiction but also proprietory rights. That clause of Regulation XI of 1825 is not respected by which the rights of property are maintained in land which can be identified; on the contrary, a transfer of proprietory rights, and even of cultivation, follows the transfer of lands from one bank to

another, and, strange as it may seem, my own impressions and Mr. Simson's local enquiries (*see* his letter No. 50—96, dated 26th January 1859) both lead to the conclusion that this practice has prevailed from time immemorial. If it had been an innovation of ours, the people would have complained. The question is, admitting the custom, shall it be maintained? I concur with Mr. Simson in recommending its abolition, as the arrangement is unreasonable and inexpedient.

* No. 185—341, dated 23rd March 1859, from Deputy Commissioner, Hoshiárpur, and enclosures.

No. 344—655, dated 17th June 1859, from Deputy Commissioner, Hoshiárpur.

7. A third case arose between the Umballa and Hoshiárpur authorities. In sending the original correspondence* for your perusal, it is only necessary for me to say that I agree generally with the views laid down by Mr. Melvill.

8. The particulars of the fourth case are given in Captain McNeile's letter No. 47, dated 7th February 1859. Owing to a series of changes in the River Sutlej, a plot of land has now made its appearance on the boundary of Buggeean and Mund Tihára which was formerly measured in the settlement maps of both villages. This piece of land with the old river bed is now an increment to which both sides lay claim, and in support of which both adduce their settlement maps. Captain McNeile's decision, giving half to each village, is, I think, fair and equitable; but as Mund Tihára is now on the left bank of the River Sutlej, I would for reasons already given recommend its transfer from Ludhiána to Jullundur. In the investigation of this dispute the inconvenience of two conflicting jurisdictions was very apparent. If I had differed from Captain McNeile, I should have been obliged to refer the case to the Cis-Sutlej Commissioner, and if we again had been at issue, the question must have been referred to your office.

No. 705, dated 10th December 1858.

From—D. Simson, Esquire, Deputy Commissioner, Hoshiárpur,

To—Major Edward Lake, Commissioner and Superintendent, Trans-Sutlej States.

Khwája Bans.
Phulra.
Nun.
Mulanwál.

Last year the River Beás changed its course, and owing to that change the area of the villages marginally noted, including the village sites, became situated on the Gurdáspur side of the main stream, and the villages in question were in consequence, in accordance with the rules in force, transferred from the kharíf of the year 1857-58 to the Gurdáspur district.

2. During the late rains the river returned to its former course, and the villages from that district from the kharíf of 1858-59.

Muman.
Tathu Barkat.
Pawal.
Phekowál.

3. Besides the above villages, portions of the cultivated areas of the villages marginally noted were transferred to Gurdáspur last year under orders issued previous to my incumbency, though the village sites and the main portions of their areas remained on this side the river, and have been in like manner received back this season into this district; and portions also of the cultivated areas of other villages, which I will be able to detail after a scrutiny of the vernacular office records, have previously been transferred in the same manner in former years.

4. Now I wish you particularly to observe that the cultivated areas of the villages referred to in my 3rd paragraph were not washed away but merely cut off from their parent villages, so to speak, which remained on this side the river, by a change in the course of the main stream; and I beg to request your instructions as to whether, under the above circumstances, any change of jurisdiction with regard to the area in question should have taken place. I think not, and have so little doubt on the subject that, but for the existence hitherto of a different practice in both this and the Gurdáspur districts, I should not have thought it necessary to refer the question.

5. But a more extraordinary practice still has, I find, obtained: not only have the areas in question been separated from the villages to which they properly belonged, but in every case the proprietory right of the lands transferred has been lost likewise, and in some instances the cultivators also have

been ousted. Nay, even in the case of the villages noted in my 1st paragraph which were rightly transferred bodily to the Gurdáspur district, the biswadárs in possession and cultivating were also deprived of their proprietory right, holding only their cultiavted lands as cultivators and deprived of all power over the culturable area, which in most of these villages is extensive.

6. Such a state of things is, in my opinion, contrary to the principles laid down in the Directions to Collectors and elsewhere for the decision of such cases, besides being unjust to the proprietors and fraught with serious inconvenience and loss to Government.

7. The principle in alluvion and diluvion cases is, I believe, as laid down in my 4th paragraph. The present practice is unjust to the real proprietors, as while their cultivated lands remain intact, no good reason can be imagined why they should be deprived of their property in them, and it occasions loss to Government by creating such an uncertainty of tenure that the zamíndárs on neither side of the river will undertake the reclaiming of the culturable barren land, which is extensive, on the chance of losing both their land and their labour the next season. A practical example of this is to be found in the village of Nun, one of the villages above noted, at this present moment. The village in question, instead of being kept separate in the Gurdáspur district, was attached to the village of Aulak, and the zamíndárs of that village not only assumed the proprietory right as in the other villages, but took the cultivation also into their own hands: on the re-transfer of the village they of course gave up both; but the biswadár cultivators have meantime gone away hither and thither, and though they will doubtless in time return, the immediate consequence is that only about a third of the former cultivated area is under crop this rabi.

8. I discovered the above circumstances on visiting the villages this morning with a view to their summary settlement, and have not addressed the Deputy Commissioner, Gurdáspur, on the subject, because from the statement of diluvion received by me from him, it is clear that all the above villages were really attached to Gurdáspur villages instead of being kept intact, and because I have properly no concern with the arrangements of his district, while I think the principles and consequences involved so important as to require a reference which can only be settled by yourself and the Commissioner of Lahore.

9. I beg at the same time to state that the transfer of the proprietory right in one village at least (Khwája Bans) appears to have had something to do with the settlement maps and papers of the villages of Khiri and Aulak on the Gurdáspur side of the river. But no weight seems to have been given to present possession; and whether the zamíndárs on the other side of the river have any proprietory rights in the lands of these villages or not, their rights should in my opinion be fixed on other principles than those above enunciated, and the proprietory right of all lands and the right of cultivation of cultivated lands should not be affected by any change of the river's course, provided the lands are not washed away and all landmarks destroyed.

No. 6499, dated 14th December 1859.

From—H. E. Perkins, Esquire, Personal Assistant to Financial Commissioner, Punjab,

To—G. C. Barnes, Esquire, Commissioner and Superintendent, Cis-Sutlej States.

Forwards certain original correspondence received from Commissioner, Trans-Sutlej States, with extract paras. 1, 4, and 8 of his letter appertaining thereto, No. 384, dated 6th instant, and requests Commissioner will favor Financial Commissioner with his opinion on the two cases.

No. 6500, dated 14th December 1859.

From—H. E. Perkins, Esquire, Personal Assistant to Financial Commissioner, Punjab,

To—R. N. Cust, Esquire, Commissioner and Superintendent, Amritsar Division.

Forwards original correspondence received from Commissioner, Trans-Sutlej States, with extract paras. 1, 4, 5, and 6 of his letter appertaining thereto, No. 384, dated 6th instant, and requests Commissioner will favor Financial Commissioner with his opinion on the case.

No. 313, dated 20th December 1859.

From—G. C. Barnes, Esquire, Commissioner and Superintendent, Cis-Sutlej States,

To—A. A. Roberts, Esquire, Officiating Financial Commissioner, Punjab.

In reply to your docket No. 6499, dated 14th December, with original enclosures,* regarding lands affected by changes in the river, I have the honor to state that there are two aspects in which this question must be viewed—first, as regards political jurisdiction, and, secondly, as regards the rights of private property.

* Herewith returned.

2. Jurisdiction should follow the deep channel of the river; that is the only clear and safe boundary to recognize. Lands on one side with the incumbent population belong to one jurisdiction and lands on the other side belong to another.

3. So long as the land preserves its identity and is cut off from one bank with trees and field-marks standing and is bodily transferred to the other side, then private rights in the property are not disturbed. The revenue on the land thus isolated from the mother-estate must be constituted into a separate mahal and be paid into the district treasury to whose jurisdiction it has become transferred, and the mother-estate must be proportionately reduced.

4. But land insensibly washed away by the constant action of the river and thrown up in a new deposit somewhere else will not be recognizable, and in ordinary cases should be attached to that estate or estates on the boundaries of which it has been formed.

No. 423, dated 20th December 1859.

From—R. N. Cust, Esquire, Commissioner and Superintendent, Amritsar Division,

To—D. F. McLeod, Esquire, Financial Commissioner, Punjab.

In reply to your No. 6500 of 14th December, I beg to return the enclosed papers with the following remarks.

2. The mode of conducting business in native States is so strange that it is difficult to be sure whether the Rája of Kapurthala urges the claim to the alluvial land as sovereign, or whether his servants are merely pressing the claim of the owner of the soil, who happens in this case to be an influential officer in the army of the Rája. I was visiting this individual this morning at his residence at Talwandi, and I suspect that the claim is for the zamíndári.

3. I would propose that His Honor the Lieutenant-Governor be solicited to lay down authoritatively the following principles, both as regards dealings betwixt the Government districts and those of independent Chiefs and dealings betwixt district and district:—

(1) That the main stream decides the jurisdiction absolutely and under all circumstances, and the revenue necessarily follows the jurisdiction.

(2) That the rights of property be declared to be independent of change of jurisdiction, and that independent Chiefs be invited to make this part of their municipal law.

(3) That a new start be made on these principles from the current year without opening out old questions, the status of 1859 only to be looked to.

4. I would decidedly abolish the contrary practice, if such exist, in the Upper Beás. My memory does not enable me to support the statement of the present authorities of Hoshiárpur. I would not take into consideration the question of gradual or sudden change, or of the location being bodily transferred, or of islands being formed: the simple rule should be the broadest and deepest channel selected by boatmen for navigation.

Copy of a letter No. 1855, dated 12th May 1860, from the Financial Commissioner, Punjab, to the Commissioner, Cis-Sutlej States.

With reference to your predecessor's letter No. 384, dated 6th December, to which no reply has been made, I shall be glad if you would favor me with an opinion on the subject of enacting simple rules of "river law" to be applicable to all the rivers of the Punjab, both as regards jurisdiction and property,

and taking into consideration the fact of the transferred area being capable of identification or otherwise.

Copy of a letter No. 1856, dated 12th May 1860, from the Financial Commissioner, Punjab, to the Commissioner, Ráwalpindi Division.

I SHOULD feel obliged to you if you could inform me what is the river law prevailing in the Jhelum, Indus, and Chenáb, as far as regards your division.

2. When a village or a portion of a village is transferred by the change of the river course from one side to the other, what change is made in the jurisdiction? and what in the property, if any?

3. Where area has been washed away on one side, and on the opposite side new deposits are formed, without, however, any trace of actual occupation, to whom does the area belong?

No. 107, dated 18th May 1860.

From—P. S. MELVILL, Esquire, Offg. Commissioner and Superintendent, Trans-Sutlej States,

To—R. N. CUST, Esquire, Financial Commissioner, Punjab.

I HAVE the honor to reply to your letter No. 1855, dated 12th instant, on the subject of lands affected by the action of rivers. The subject divides itself into three heads—property, jurisdiction, and revenue. My opinion is as follows, and from a perusal of the correspondence in this office, I see no reason why one set of rules should not be applied to the Punjab generally.

2. I.—The rights of property in land thrown up by a river should appertain to the village opposite whose boundary the increment occurs. *Exception.*—Where the new land is very extensive, and wholly beyond the power of the owners of the village to cultivate within a period of three years, a fair proportion should be given to those owners with reference to their wants, and the remainder constituted a separate mahal, to be bestowed on any person who may appear most entitled to receive them, whether in regard of their actual want of land to cultivate, or of their having been deprived of their original land by the action of the river.

II.—Where, by a change in the course of the river, land is cut away and bodily transposed, its physical features, such as trees, houses, or landmarks being capable of identification, no alteration should occur in the proprietory rights.

3. *Jurisdiction* should appertain to that bank on which the land is thrown up, or nearest to which, in the case of a change of stream, it is placed, provided that the main channel lie between the dissevered portion and the area from which it has been disconnected. This rule to apply to independent jágírs equally with British territory.

Exception.—Where the dissevered land is formed into an island and the difference between the depth of the two channels surrounding it is inconsiderable, so that there may be reasonable doubt as to which is the main channel, the land should remain attached to its original jurisdiction. This exception would be the more important if the island were much nearer the parent village than the opposite bank. Such questions should be decided liberally on their merits.

4. *Revenue.*—In the case of new lands which have emerged from the river, the revenue will necessarily be received by the authorities having jurisdiction on the bank on which it has been formed. Where land has been merely cut round by the river and has been declared subject to the jurisdiction of the opposite bank, the collection of revenue should follow the jurisdiction. These rules should apply entirely to independent jágírdárs as well as to British territory. They should also apply to independent jágírdárs, except—

(1) where the land is not newly-formed alluvion but is merely transferred from one bank to the other by a change in the main

stream. Here the revenue of the transferred area, whether it belonged formerly to the dependent jágírdár or the British Government, should not change hands;

(2) where the new land thrown up by the river is very extensive and beyond the capacity of the adjoining village to cultivate, and is consequently formed into a separate mahal, the dependent jágírdár should be precluded from additional revenue, except on that portion of the new land which may be included within the boundaries of the adjoining village with reference to the requirements of the zamíndárs, as stated in the exception under paragraph 2.

5. It would be necessary to secure the concurrence of the Government of the North-Western Provinces as regards the Jámna before these or any other rules could be satisfactorily enforced.

No. 175, dated 31st May 1860.

From—CAPTAIN F. R. POLLOCK, Offg. Commissioner and Superintendent, Ráwalpindi Division,
To—R. N. CUST, Esquire, Offg. Financial Commissioner, Punjab.

I BEG to reply to your No. 1856, dated 12th instant.

2. The answers from Deputy Commissioners are annexed.

3. From these I note that in this division no changes occur on bank of Indus.

4. On the banks of Jhelum and Chenáb two rules prevail regarding decrement and increment. One is known as the "Sikandri hadd," and by this land washed away on one side and thrown up on opposite bank becomes the property of the village to which it was shifted. In other places the rule is that the land so thrown up is considered the property of the proprietor whose land has been washed away. This I consider the more equitable rule of the two, and if I mistake not it obtains lower down on the Indus, at Isakhel for instance, where the whole estate nearly of the Khans of Isakhel has shifted across the river without their losing proprietory right.

5. Where the rivers change their course, transferring villages from one bank to the other, the jurisdiction is changed, but no change is made in property, which remains as fixed at settlement.

No. 134, dated 23rd May 1860.

From—CAPTAIN J. W. BRISTOW, Deputy Commissioner, Jhelum,
To—CAPTAIN F. R. POLLOCK, Offg. Commissioner and Superintendent, Ráwalpindi Division.

As directed by your docket No. 64, dated 17th instant, I have the honor to reply on the subject of "river law" in this district.

2. From Mungla in the north-west corner of the district, where it touches the Jhelum, down to Balee Dooliál, about 10½ miles, a line has been defined which runs along the "balas" or river deposits, and along it masonry pillars have been erected. Each pillar was alternately set by the respective Governments—the British and the Jummoo. From opposite Balee Dooliál up-stream is in the dominions of the Maharája of Jummoo. The boundary was defined by Major James Abbott in 1853, to which duty he was specially appointed. The river changing its course to one or the other side of the line has no effect in causing transfer of area.

3. From opposite Balee Dooliál in this district downwards is that of Gujrát from Balee Dooliál to the Boonha nala at the village of Bhimber the "hadd Sikandri" rules, *i.e.*, the main channel of the river is acknowledged the boundary between the districts Gujrát and this and between villages on either side the water. The jurisdiction of course accompanies the transfer from one district to the other.

4. From the Boonha nala downwards to the extreme south-west limit of the district the boundary is defined by a line of mud pillars along the "balas," as in the case of the tract from Mungla to Balee Dooliál. This arrangement

was made during the settlement of the Gujrát and Shahpur districts. If the pillars are washed away and a deposit again appears on the place, this place can be ascertained by measuring down to it from some known point on the pakka bank to which the flood-water does not reach.

No. 395, dated 24th May 1860.

From—B. Hardinge, Esquire, Deputy Commissioner, Gujrát,

To—Captain F. R. Pollock, Offg. Commissioner and Superintendent, Ráwalpindi.

I beg to acknowledge your docket No. 64, dated 7th instant, containing Financial Commissioner's enquiry regarding water law. In answer to para. 2, suppose firm bela land was in the Chenáb and attached to Gujrát district, the real river running between the bela and Gujránwála,—in the rains, however, the river cut out a new channel for itself on the Gujrát side, then the bela would come under the jurisdiction of Gujránwála, the proprietory right defined at settlement remaining intact. I can quote an instance. A village called Boorj Elich has been transferred backwards and forwards between this and Gujránwála, but the land has remained in possession of original owner.

2. "Hadd Sikandri" is the rule which would apply to para. 3. The land would belong to the side where the deposit formed.

No. 222, dated 26th May 1860.

From—D. C. McNabb, Esquire, Offg. Deputy Commissioner, Shahpur,

To—Offg. Commissioner and Superintendent, Ráwalpindi Division.

In reply to your docket calling for answers to questions on the subject of river law in force in this district, received on 22nd instant, I have the honor to inform you that there appears to be no general rule on the subject universally acted on all along the two rivers, Chenáb and Jhelum, which run through this district.

2. I find that in one part of the Sáhiwál tahsíl the "Sikandri hadd" is the recognized law, and has been acted on in the decision of one or two cases in the settlement court; but where the rivers are so liable to annual deflections from their course, I think the general application of this rule would lead to great injustice.

3. Villages where there are shifting channels generally hold belá lands, "urár pár," and claim newly-thrown-up "kachi" on the farther side many years after the washing away of their old lands on the hither side. There seems to be no exact limit as to how far a village may claim the new land thrown up in front of its own, as there are always stories of well and garden washed away from the spot a century ago, but the matter is generally settled by measuring from some well-known point in land.

4. Each case has to be decided on its merits. It is never for a moment doubted that the new belá belongs to one side or the other, and as these lands are so necessary for the buffalo-grazing, the idea of new-formed land belonging to Government would be looked upon, I think with some reason, as oppressive injustice.

5. The "Sikandri hadd" seems to have obtained at Jalálpur in the Jhelum district. The river there used to run close under the Salt range within the memory of last generation. It has now retired some miles south-east, and the land is held without dispute by the villages originally on the north-west side, who have spread themselves out into a number of small hamlets as their lands increased.

6. On the Chenáb, on the other hand, two entire villages have been washed away from the Gujránwála side, and their owners have taken undisputed possession of the lands thrown up on this side. For convenience in police and revenue matters, these villages have been transferred to this district, but they are held by the owners of the land washed away from the far side.

7. Where the Jhelum district marches with this district along the river line, we both hold lands "urár pár" in very many instances, but the village sites are always on the side of the district to which they belong.

No. 275, dated 28th May 1860.

From—H. Dwyer, Esqire, Offg. Deputy Commissioner, Ráwalpindi,
To—Offg. Commissioner and Superintendent, Ráwalpindi Division.

Replies to circular No. 64 on subject of river law and states—

1. The left bank of the Indus is formed of high and rocky soil; consequently cases of increment or decrement are unknown in this district.

2. Great floods however do occur, but very rarely, such for instance as the great flood of 1858, which was caused by a stoppage in the river in the Ladákh mountains. A considerable extent of country, comprising some villages, suffered damage on that occasion.

3. It has never occurred that the Indus, by a change of its course, separated a village, or portion of village, from one side of the river to the other; the banks are too high and well defined to admit of lateral diversion. The *lex loci* therefore is *non extant*, but in such a case thinks the jurisdiction would go with the village so transferred while the proprietory rights would remain, *e.g.*, a village transferred from the Pindi to the Peshávar side, the jurisdiction would be transferred to Peshávar, but the property would still be owned by the original proprietors.

4. No case has ever occurred of area having been washed away on one side and of new deposits forming on the other, so no local usage exists, but in such a case thinks the new area would become an increment to the town land to which it becomes attached.

Extract para. 1 of No. 2561, dated 18th June 1860, from R. N. Cust, Esquire, Officiating Financial Commissioner, Punjab, to Major G. W. Hamilton, Commissioner and Superintendent, Mooltan Division.

I have before me the task of regulating the procedure to be followed with regard to the following subjects, and I shall be glad to be favored with your opinion on the following points :—

River Law.—What rules should define the rights of proprietors of land transferred from one side of the river to the other, left mid-stream, or appearing on the opposite side with every trace of its old appearance effaced? Would you apply the same law to Bahawalpur?

Extract paras. 1 to 4 of No. 160, dated 3rd July 1860, from Major G. W. Hamilton, Commissioner and Superintendent, Mooltan Division, to R. N. Cust, Esquire, Officiating Financial Commissioner, Punjab.

I have the honor to acknowledge the receipt of your letter No. 2561 of the 18th ultimo, and in reply to detail my opinion on the points referred to in your communication.

2. *I.—River Law.*—This must be considered in two separate views—firstly, public, as it affects the territorial divisions of the country; and, secondly, as it concerns the private rights of individuals. In this portion of the Punjab, whenever a river forms the boundary of two States or between two subordinate divisions, whatever be their denomination the main stream through all its changes is accepted as the line of demarcation. If an island is formed in the river, it belongs to the State or district between which and the main stream it lies. If the main stream is not clearly defined when lying between different States, it would be neutral ground until the river took a decided course, which would probably occur in a single season. In the same manner a river forcing its way through an isthmus and cutting off a peninsula would transfer it to the opposite side, and it would then belong to the State or district on that side. Land gradually thrown up by the river would of course belong to the State or district to whose bank it was attached.

3. But these boundaries would in no way affect the proprietory right to the land. The transferred peninsula would still belong to its original owners, who might thus become subjects of a foreign State or inhabitants of another district. In deciding as to the proprietorship of the newly-formed island on newly-formed land attached to the bank, there is less difficulty than at first might be imagined. In many instances the same parties are proprietors of the lands on both sides of the river. When for example lands on the left bank of

a river are abraded and at the same or even after a considerable period new land is thrown up directly opposite on the right, it generally is accounted as belonging to the owner of the abraded land on the left bank. The difficulty is when the lands are thrown up diagonally or obliquely, and in this case it is quite impossible to give any general rule by which conflicting claims can be decided. The excellent village maps of the survey will do much, however, to remove difficulties in future years.

4. This subject has already been fully discussed in the correspondence with your predecessor and I need not enter into a detail of the advantages of the existing system, which to me are quite apparent. In regard to Baháwalpur, the law has already been fixed in the correspondence ending with the Mooltan Commissioner's letter to the Secretary to the Board, No. 158 of the 5th April 1852. The rule has been acted upon since that date and until recently to our advantage. It would not now be practicable to change it, were it politic to do so, which it is not.

No. 68, dated 25th May 1960.

From—G. C. Barnes, Esquire, Commissioner and Superintendent, Cis-Sutlej States,
To—R. N. Cust, Esquire, Officiating Financial Commissioner, Punjab.

A mauza called Gobindgarh of Pargana Rupar was entirely washed away by the River Sutlej in 1858-59. It was consequently removed from the rent-roll. In the following year some "new land appeared on the site of the old mauza," and it was claimed by the homeless zamíndárs. The Deputy Commissioner however, on the authority of paragraph 206 of "Directions to Collectors," rejected their application, ruling that their village "having once been removed from the rent-roll can never again be restored." The lands were given to a neighbouring village called Zindapur.

2. These facts were not very clearly shown in the appeal papers that came before me, but observing that the Deputy Commissioner had rejected the claim of the Gobindgarh people summarily and without enquiry, I directed that their rights should be investigated and the tahsíldár deputed to the spot to prepare a sketch map.

3. The Deputy Commissioner has now addressed me in the case by public letter, herewith submitted to you in original. I see no reason myself why we should be bound by the rule laid down in paragraph 206 of "Directions to Collectors." Such land thrown up by the river is at the disposal of Government, and the claim of proprietors whose lands have been totally destroyed by the river should not be debarred absolutely. I do not say that they should get the land, but their claims might receive at least equal consideration with others.

No. 471, dated 1st June 1860.

From—R. N. Cust, Esquire, Offg. Financial Commissioner, Punjab,
To—R. H. Davies, Esquire, Secretary to Government, Punjab.

I beg to forward to you the enclosed papers in original* from the Commissioner, Cis-Sutlej States, and to solicit permission to modify paragraph 206 of "Directions to Collectors."

* No. 68, dated 25th ultimo, from Commissioner, with original enclosures from Deputy Commissioner, Umballa.

2. A village is supposed to be washed away by the action of the river, and its name is removed from the kistbandi: this is but a drop in the ocean as regards the Government revenue, but the loss entails ruin on the zamíndárs.

3. In a short time the river recedes and a deposit is left, which the unhappy zamíndárs regard as at least the representative of their lost inheritance; but paragraph 206 of the "Directions" sternly bars their claims and assigns the land to parties who cannot have a shadow of claim, because until the catastrophe they have been separated from the river by the intervention of a whole village area.

4. I propose to alter this paragraph and leave it to the discretion of the Commissioner either to replace the name of the lost village on the kistbandi, or to place, after investigation of the claims of others, the old zamíndárs in possession of the area as an additional patti to the adjacent mauza.

No. 824, dated 20th June 1860.

From—R. H. Davies, Esquire, Secretary to Government, Punjab,

To—R. N. Cust, Esquire, Officiating Financial Commissioner, Punjab.

In reply to your letter No. 471 of 1st instant, regarding the village of Gobindgarh washed away by the Sutlej, but a portion of the lands of which have reappeared in consequence of the river having receded, I am to state that, in the opinion of the Hon'ble the Lieutenant-Governor, the claims of the old zamíndárs to recover the lands should be duly investigated. His Honor sees no reason why the name of a village once struck out of the rent-roll should not be restored when there are good reasons for doing so.

2. The Lieutenant-Governor does not consider that the investigation of such claims is barred by paragraph 206 of the "Directions to Collectors."

3. The original enclosures of your letter are returned herewith.

No. 763, dated 16th August 1860.

From—R. N. Cust, Esquire, Officiating Financial Commissioner, Punjab,

To—Secretary to Government, Punjab.

I have the honor to submit a code of rules disposing of the judicial question of "river law" The administrative revenue question of the modification of assessment caused by the action of rivers, so often improperly mixed up with this reference, has been reported on in my No. 760, dated 14th instant, to your address.

2. To these rules the consent of the Government of the Agra Provinces will have to be solicited as regards the River Jamna. The reference* quoted in Rule III will show that the Governments are not entirely in accord. The territories of the Maháràja of Jammu are defined by masonry pillars under treaty; the Nawab of Baháwalpur has, I understand, agreed to Rules I and II; the Rája of Ahluwalia should be consulted, and his consent as regards Rules I and II formally obtained.

* Vide Board to Commissioner, Mooltan, No. 1547 of 1852.

3. The enclosed file of correspondence† show that in the main principles, Mr. Barnes, Major Lake, Mr. Melvill, Colonel Hamilton, Mr. Edmonstone, and Sir John Lawrence generally agree. It appears to me to be of the greatest importance that one clear and distinct rule should be enforced all over the Punjab. It may seem equitable at first sight, and is indeed provided for by Regulation XI of 1825, that disputes of this kind should be determined by definite and immemorial custom; but this presupposes a period of order and law during which that custom would have developed itself naturally, not a period of unrule and absence of law, which has led to the anomally of precisely contrary customs being asserted on the same or similar rivers. We are introducing a new rule and a new system, and as yet there has been no conflict of precedents decided on contrary principles. Let us lay down a clear and distinct rule for the future.

† Proceedings dated 17th December 1859, No. 90-2.
Proceedings dated 12th May 1860, No. 190-5.
Letter No. 107 dated 18th May 1860, from Commissioner, Trans-Sutlej States.
Proceedings No. 175, dated 31st idem, from Commissioner, Ráwalpindi, with original enclosures.

4. It appears beyond doubt that in the Upper Beás between the districts of Gurdáspur and Hoshiárpur, not only does jurisdiction change with the stream but proprietory rights also, and even cultivation in some cases: the consequences are most fatal to agriculture and the stability of property. Mr. Simson, a most intelligent officer, states distinctly in his No. 705 of 10th December that in three villages bodily transferred to the Gurdáspur district, the biswadárs were deprived of their proprietory rights: a few years after the river changed, and they regained them. Mr. Simson does not state who enjoyed their rights during the interval. Mr. Davies, Settlement Officer, in one of his letters to the Commissioner of Lahore, confirms the existence of this practice; and I agree with Major Lake that it had better be abrogated; immemorial though the custom may be, it is not just. I propose that Rule IV be made absolute.

5. Mr. Brandreth, Deputy Commissioner of Ferozepore, in July 1852 proposed that the zamíndárs on either bank of the Sutlej who had lost land by diluvion should have a preferential claim to land thrown up by alluvion on the opposite bank. Neither the Commissioner of the Cis-Sutlej States, Mr. Edmonstone, nor Sir John Lawrence, nor Mr. Barnes, then Commissioner of Lahore, supported this proposition,

Commissioner of Cis-Sutlej States to Board, No. 500 of July 1852.

and Rule V is in force. But I remark that Colonel Hamilton, Commissioner of Mooltan, in para. 3 of his No. 160 of July 1860 to my address, incidentally remarks, "when lands on the left bank of the river are abraded, and at the same time, or even after a considerable period, new land is thrown up directly opposite on the right, it generally is accounted as belonging to the owners of the abraded land." Where the same parties are proprietors on both sides it would not matter, but otherwise this custom should cease and Rule V be absolute. Mr. McLeod in his No. 4242 of October 1858 to Commissioner of Mooltan alludes to this usage.

6. It might have been imagined that Rule I would have been allowed by all, as a large river is so obviously the most convenient boundary of dominion and jurisdiction; but such is not the case. In my No. 531, dated 19th June 1860, I forwarded for the orders of Government a reference from the Commissioner of Leia Division, in which the principles on which Rule I is based was contested as regards the independent territory of Baháwalpur. I conclude that orders will be passed on that case; but it is a matter of still greater surprise to find that difference of opinions exist whether the main stream should be the boundary betwixt districts of the Punjab Government. I find myself, Colonel Hamilton, Lieutenant Elphinstone, Mr. Melvill, and Mr. Barnes opposed in opinion to Sir John Lawrence, Mr. Temple, Mr. McLeod, and Mr. David Simson. The position taken up by the latter officers is that when the main portions of the area and the village site remain untouched on one side of the stream, the smaller portion will remain under the same jurisdiction as the parent village, or, as Mr. McLeod puts it, "every such portion of a village will appertain to the jurisdiction within which the most important part of it is situated." On the contrary, the position which I and those who think with me maintain is that (to quote Mr. Barnes's words, which are generally to the purpose) "the revenue in the land thus isolated will be constituted into a separate mahal, and be paid into the district treasury to whose jurisdiction it has been transferred, and the mother-estate must be proportionately reduced."

Commissioner of Lahore to Financial Commissioner, No. 7 of January 1859.
Commissioner of Mooltan to Financial Commissioner, Nos. 255 and 306 of September and November 1858.
Settlement Officer of Gugaira to Commissioner, No. 78 of November 1858.
Commissioner of Cis-Sutlej States to Financial Commissioner, No. 313 of December 1859.
Secretary to Chief Commissioner, No. 918, dated 5th November 1855.
Financial Commissioner to Commissioner of Lahore, No. 1691, dated 17th May 1856.

Financial Commissioner to Commissioner, Mooltan. { No. 3529 of August 1858. No. 4242 of October 1858.
Deputy Commissioner of Hoshiárpur to Commissioner, No. 705 of December 1858.

7. Colonel Hamilton and Mr. McLeod went very fully into the arguments *pro* and *con* in the case of Mauza Ulpee on the confines of district Gugaira and Lahore. The correspondence is enclosed, and Mr. McLeod surrendered his judgment to the united opinions of Colonel Hamilton and myself in that particular case, but I beg that the rule may be made absolute for the Punjab. It is of the highest importance.

8. The custom of the river is known indiscriminately by three names—"kachmach," "kishtibani," "sikandri." Different interpretations are given at different places: the issues are never clearly drawn, whether the dispute is about jurisdiction or property, about unchanged or newly-formed area. We cannot help the old cases settled before the present year, the changes are great each year, and in a cycle all would gain equal advantage and suffer equal loss. Policy suggests that great rivers should divide police jurisdictions, and revenue and police divisions are conterminous. Justice requires that a man should not be deprived of his acres, his trees, his wells, his houses, because a river flows to the right instead of the left of his village. Expediency suggests that newly-formed land should be attached to the adjacent village which is most likely to till it.

9. As an administrative question, it is proper that all transfers of villages, or portions of villages, from one district to another should take place with the sanction of the Commissioner, who will see that the proper change of the demand for land revenue takes place at once. Similarly transfers from one division to another should take place with the sanction of the Financial Commissioner.

10. I enclose all the papers which are found in this office for convenience of reference.

River Law applicable to the seven great rivers and for the whole of the Punjab.

"The jurisdiction."

Rule I.—The limits of jurisdiction and dominion are defined in all cases by the main stream, both as regards independent States and the districts of the Punjab Government *inter se.*

Exceptions—

A.—Where boundaries have been defined by masonry pillars under treaty, as is the case with the Jummoo State.

B.—Where an independent Government, as that of Agra and Scinde, will not agree.

"Jurisdiction of islands equidistant from either bank."

Rule II.—Where there are two streams of equal importance, special arrangements will be made with regard to islands situated between them, either by dividing them, or making over the jurisdiction wholly to one party.

"Revenue."—*Vide* Secretary to Chief Commissioner to Secretary to Government, N.-W. P., No. 918 of 5th November 1855; No. 797 of 20th July 1853.

Rule III.—The revenue in all cases follows the jurisdiction.

"Property in identified land."—*Vide* Board, of Lahore, No. 2622 of 8th August 1852; Mr. Edmonstone, Commissioner, Cis-Sutlej States, to Board, No. 500 of 24th July 1852.

Rule IV.—Where land is bodily transferred from one side of the main stream to the other and is susceptible of identification, no change will be made in the existing proprietory rights. The owners will pay their revenue to the parties to whom the jurisdiction falls under Rule II.

"Property in newly-formed land."—*Vide* Mr. Barnes, Commissioner of Lahore, to Board, No. 916 of 1st October 1852.

Rule V.—Where the identity of the land is destroyed, it is impracticable to revive proprietory rights on behalf of the village which has lost by alluvion. The alluvial deposit becomes the property of the village to which it is adjacent.

Exception—

Where the new land is very extensive and wholly beyond the powers of the owners of the village to cultivate within a certain period, a fair proportion should be given to them, and the remainder constituted a separate mahal, the property of Government.

"Jágírdárs subjects of British Government."—*Vide* Mr. Edmonstone, Commissioner of Cis-Sutlej States; Sir J. Lawrence, Board of Administration, No. 500 of 24th July 1852, para. 10.

* In modification of para. 214 of "Directions to Collectors."

Rule VI.—If the land gained by alluvion is capable of recognition (Rule IV), and the village is khálsa it will continue khálsa, if jágír it will continue jágír; but* if the land is gained by gradual accession (Rule V), it will be khálsa if the village to which it is adjacent is khálsa, and jágír if that village is in jágír.

Exception—

In the case noted in exception to Rule V, the jágírdár will be precluded from additional revenue, except on that portion of the new land which has been included in the village which he holds in jágír.

"Property in newly-formed islands equidistant from either bank."

Rule VII.—Where the new alluvial land is separated from the villages of either side by streams of equal dimension, and the identity of the land has been utterly destroyed (Rule V), in that case the property of the newly-formed island will vest in the Government to whose jurisdiction it falls under Rule II.

"Restoration of land to villages entirely destroyed."—*Vide* Government of Punjab to Financial Commissioner, No. 824, dated 20th June 1860, in modification of para. 206 of "Directions to Collectors."

Rule VIII.—If the whole area of a village be washed away, and the name be expunged from the Government books, and at subsequent period alluvial land incapable of identification be thrown up, it may be restored, at the discretion of the Commissioner, to the zamíndárs of the old village.

"Boundary disputes between villages on the same side of the stream."

Rule IX.—The right of villages on the same side of the main stream to alluvial deposits will be decided as ordinary disputes by reference to the professional survey maps, field maps of old dates, local inquiry, and, where that fails, in the manner most consonant to equity and expedience.

"Extinction of right of assignment to revenue land entirely washed away."—*Vide* "Directions to Collectors," para. 214 (*ad finem*).

Rule X.—A mafi plot once swept away has ceased to exist, and the mafidar has no claim to the revenue of a portion of alluvial deposits incapable of identification. Similarly, if a jágír village be wholly swept away, the right of the jágírdár has expired.

No. 1261, dated 31st August 1860.

From—R. H. Davies, Esquire, Secretary to Government, Punjab,

To—R. N. Cust, Esquire, Officiating Financial Commissioner, Punjab.

Reply to No. 763, dated 16th August, submitting for approval a code of rules relating to "river law."

The Hon'ble the Lieutenant-Governor will postpone orders on this case, pending a reply from Supreme Government to a reference previously made on the subject.

C.—CORRESPONDENCE CONNECTED WITH FINANCIAL COMMISSIONER'S CIRCULAR MEMO. No. 6541, dated 1st November 1869.

No. 544, dated 23rd September 1867.

From—J. B. Lyall, Esquire, Officiating Settlement Commissioner, Punjab,

To—J. A. E. Miller, Esquire, Secretary to Financial Commissioner, Punjab.

I have the honor to submit for your orders, in original, the correspondence marginally noted, on the subject of river boundaries.

Settlement Officer, Lahore, No. 228, dated 5th February 1869.
Settlement Officer, Gujrát, No. 53, dated 13th July 1867.

Mr. Saunders, writing especially with respect to the Sutlej, proposes to do away with the existing custom of deep stream boundary between opposite villages in Lahore and Ferozepore, and to substitute the "wár-pár" system, or rather to fix once for all a common boundary between opposite villages in the river bed, not as the river bed now stands, but as it stood at time of professional survey, and then to decide present and future claims by such boundary without reference to the position of the deep stream for the time being.

2. Captain Waterfield seems to be of opinion that in Gujrát there is no necessity of a change of system, as he thinks that, if a common boundary were fixed in the river bed as shown in the survey maps of his district, it would be found that the position of the river has not changed so considerably as to admit of alluvion within such boundary, but on the opposite side of the river to the village to which it would belong. He says that the rules of riverain law given in pages 127, 128, 129, of Mr. Cust's Revenue Manual, agree generally with the practice hitherto in force in his district, and he considers that if the Deputy Commissioners of districts on opposite banks unite to give full effect to some of those rules, cases of hardship can be sufficiently alleviated.

3. I gather from Settlement Officers' letters and former settlement reports that in Lahore, in the case of villages on the Rávi, and in Gujrát, on both the Jhelum and Chenáb, the custom of "wár-pár" more or less clearly prevails. But I fancy that this custom is vague, and is made in practice, except in rare cases, to apply to recognizable lands only. The existence of a thorough "wár-pár" system applying to real alluvial deposit, as well as to lands which have merely changed sides, would prove the existence of a recognized boundary line independent of the movements of the river, and no such boundary lines have I believe ever existed. Claims to real alluvion across the river have, I think, only been admitted in exceptional cases of what seemed great hardship in the opinion of the officer deciding them.

4. In my opinion the system of deep stream boundary is a very bad one. I agree entirely with Mr. Saunders' remarks upon it. I have myself seen how unfairly it works in the Gurdáspur District. It gives to one village for a few years more land than they can make use of, and leaves the zamíndárs of opposite villages sitting idle on the bank waiting for the river to turn. Government loses revenue in this way and the value of property in river villages is depreciated.

5. Amend the system by withdrawing recognizable lands from its influence, and it still remains very unsatisfactory. The question whether land is recognizable or not is constantly a very fine one; it may be recognizable to the parties who live on the banks all their lives, but to a stranger it is impossible to say whether it is a new bank or island, or an old bank or island rather damaged by floods. It would still fail to settle claims to the satisfaction of parties, as it contains no principle of equity and leaves the matter to chance.

6. It is, in my opinion, useless to expect with Captain Waterfield that District Officers will in practice do any thing to alleviate hard cases by taking up surplus wastes on their sides to give to zamíndárs who have lost much or all on the other side. District Officers in the Punjab have little time for this kind of work, and generally little sympathy for zamíndárs of another district.

7. I have said above that I think the deep stream boundary system to be very bad and "wár-pár" system to be in practice vague. The Revenue Manual Rules also do not give a satisfactory system. In page 126 of the Manual Mr. Cust declares that a satisfactory settlement will only be reached when boundaries are fixed in the bed of the rivers.

8. I recommend that a river map be formed for each river, in the way suggested in Captain Waterfield's para. 15, but with this addition that such map should include the villages on both sides of the river, not those on one side only. I believe this can be done with the revenue survey village maps only, as I think no regular boundaries were fixed in those maps on the river side, and that the survey was protracted right across the river in each case; that is, I think, that part or the whole of the river bed as it stood at survey will be found in both the maps of opposite villages. I am not sure of this last point, however, nor can Mr. Saunders, to whom I have twice written, give me a positive answer: but if it is not the case, then doubtless a separate map of the excluded river bed will be found in the Survey office.

9. Upon the river map, when formed, lines showing present position of the river, present cultivation and possession would be entered. With such a map at hand the Settlement Officer on the spot would have, I think, no difficulty in making an award as to the boundary; if his award was not accepted by the parties, decision might be made by the aid of arbitrators in the way prescribed for deciding boundaries in Section 13, Directions to Settlement Officers. The boundary fixed would be at once marked off on the ground and on the map; if the line fell in the actual river bed its position would be marked on the maps, and angles taken, which would render its position easily recognizable.

10. It would, I think, be not often necessary to disturb actual possession even of uncultivated lands—the villages which have now lost very much would get the greater part of the area now under water or now unculturable, and in a short time would probably recover in part at least. No one rule or principle could be given for deciding such cases. Arbitrators would probably decide them very well.

No. 228, dated 5th February 1867.

From—L. S. SAUNDERS, Esquire, Assistant Settlement Commissioner, Lahore,
To—E. A. PRINSEP, Esquire, Settlement Commissioner, Amritsar.

I HAVE to request your orders on the important subject of river boundaries. In this district there are two main rivers, *viz.*, the Rávi and the Sutlej. To enable me to ascertain and record the prevailing customs existing on these rivers, I summoned an assembly on the banks of each river. One was held by me at Khudpur on the Rávi on 25th October 1866, and the second was held at Thatti Faríd on the Sutlej on the 15th November 1866. At the latter all the representatives of river villages (the Sutlej being the boundary of the two districts) both in this district and those of Ferozepore were collected. Major Maxwell, the Deputy Commissioner of Ferozepore, sent Muhammad Hyát Khan, Tahsíldár of Ferozepore, as his representative. I soon found the meeting was completely divided in opinion as to the advisability of continuing the existing custom of deep stream boundary; the Lahore zamíndárs objecting to the continuance of this custom, while the Ferozepore Dogars were loud in its praise. This was accounted for by the fact of the river for the last few years having made a dead set against the Lahore boundary, and the proprietory rights in all land so cut away having been made over to the Ferozepore zamíndárs. On the Rávi there were scarcely any complaints; all parties were satisfied with the existing custom of receiving their lands, whether thrown up on the north or the south of the river. There are a few villages near the Montgomery district, however, holding the deep stream as the boundary of their properties, which will be affected by the result of this reference.

It is evident that the deep stream has from time immemorial been the recognized custom prevailing on the Sutlej, and it was accordingly recorded at last settlement as the custom in force, and has been till the last few years acted upon (exceptions mentioned below).

The reason for our finding this custom in vogue was that the river was generally the boundary between two Governments, and accordingly the land on whichever side thrown up naturally belonged to the Government ruling on that side, and was by them disposed of as seemed best. But since the districts on both sides belong to one Government, the same necessity for recognizing this distinction has ceased, while the interference with private property that follows this rule seems to me to act harshly and injuriously without any compensating advantages.

The subject divides itself into two parts, which I would propose to treat of separately—

1st.—As to private property.

2ndly.—District boundaries.

The first question seems to me quite independent of any decision that may be come to on the second point, and it again divides itself naturally into two heads—first, with reference to land recognizable; secondly, land that cannot be recognized. I opine that there is no law in existence that could transfer the rights in land of the first description, while I find that, though entirely opposed to the recorded custom of the deep stream, the zamíndárs have themselves, within the last few years, admitted the justice of this course, and have ceded land which could be clearly recognized. With land of the second description, however, the former custom still prevails, but, instead of the Government, as now represented by the Deputy Commissioners, reserving such lands as may be thrown up for Government or restoring them to the former owners, it has hitherto been the custom to declare such lands the property of the adjoining estates, in support of which statement I may mention the following instance.

The village of Panj Giráín in Ferozepore has benefited during the present settlement by the areas of six villages cut away by the action of the stream from the Chunián tahsíl of the Lahore district. Of these six villages, two have entirely ceased to exist, and the remaining four have but a very

may certainly have been thrown up, the proprietory right in which could have been well decided under its rules.

8. But, as I understand the wár-pár system, Mr. Saunders means, I think, something different, and would make over to proprietors who have lost their lands on one side of the river a portion of the alluvial increment thrown up on the opposite side adjacent to other villages (being over and above the area of these villages as defined in the professional survey maps).

I take it, however, that by the regulations that land belongs to the villages to which it is adjacent, and that it can only be taken from them if it is beyond their means to cultivate it within a reasonable period.

9. The rules to be found at page 122 of Mr. Cust's Revenue Manual meet, I think, all the circumstances that are likely to occur in Gujrát, and will be found consonant with the custom hitherto in vogue.

10. Under Rule VIII a village that has been washed away will recover new land thrown up in the same position.

11. And under Rule V, if the new land which has been thrown up adjacent to a village, and which would, in the ordinary course of things, become the property of *that* village, were found to be too extensive, the surplus can be appropriated by Government (under para. VIII of Regulation VII of 1822), and either be retained by Government or be made over in perpetuity or for a term to any village most requiring it.

12. Instead of laying down that the professional survey maps, and they only, should be taken into consideration in fixing the boundaries of villages, I would prefer the wider discretion allowed under Mr. Cust's Rule IX. It might have so happened that a village of well-known size and heavy jama had suffered very much from diluvion just previously to the revenue survey. It would be more in accordance with the general feeling if it were allowed to recover by alluvion to that extent; of course the professional survey map would be the chief guide, but I would look beyond it, if reliable evidence were forthcoming.

13. One or two of Mr. Cust's rules might perhaps be somewhat more clearly worded and some additions might be made.

14. In most villages on the Jhelum river the wár-pár, or a modified wár-pár system, I believe, exists. In such cases effect would be given to Regulation XI of 1825, and Mr. Cust's rules would be superseded by local custom.

15. All that can be done, in my opinion, to alleviate the hardship which all residents on the river banks are liable to, is for Deputy Commissioners to give as much effect as possible to Rule V, and provide for villages that have been washed away either on their own side of the water from their own districts, or on the opposite side of the river, and from some other districts by the judicious conveyance to them of the surplus accretion of the other villages. If District Officers cordially co-operate much might be done to provide permanently or temporarily for proprietors and cultivators who have lost their lands.

16. By connecting the survey maps together in one map upon the same scale, a most useful river map can be formed showing the area of each village as it stood at professional survey, and the subsequent alluvion and diluvion. I enclose a sample of a small portion of this district.

The broad line in Indian ink shows the river as it ran in 1853 or 1854, and the blue line its present course. Accretions would be denoted in red ink.

I beg to return the enclosures of your letter under reply.

No. 809, dated 8th October 1867.

From—G. E. WAKEFIELD, Esquire, Officiating Deputy Commissioner, Ferozepore,

To—L. S. SAUNDERS, Esquire, Assistant Settlement Commissioner, Lahore.

YOUR memo. enclosing copy of a letter No. 228, dated 5th February last, to the address of the Settlement Commissioner, respecting the settlement of river

lands, I beg to forward my opinion as follows:—The system of annual river settlement that has hitherto prevailed was admitted by its founders to be a makeshift one, which was resorted to in the absence of a scientific surveying establishment. The injustice of the system is undoubted, and the opinion of the zamíndárs of little value, as they are naturally governed by the *status quo* at the time when their opinion is asked. The man who possesses more than his original estate wishes to maintain the present system, and the man whose original estate has been cut away by the river and made over to others is ready to vote for a new system which shall restore to him his original estate.

2. A careful survey made every year would undoubtedly be the means of giving all lands to its real owner without reference to the banks of the river; but, in order to make such survey and settlement effective and impartial, I beg to point out that both banks of rivers should be under one and the same authorities. The river should not be the boundary between two districts, the respective patwárís and subordinates and even higher officials (sometimes) are ready to take the part of their respective landowners.

3. The greatest difficulty of all will be to fix the point; the status which is to become the gauge of proprietorship on such point can, I believe, be arbitrarily fixed. The last settlement status would be but an arbitrary disposition and would ruin whole communities. The only remedy appears to be that each contested claim be decided on its merits, the right of disputants being adjusted with reference to the particular merits of each case in the same manner as the disputed proprietory rights of an inland estate would be settled.

No. 47, dated 20th April 1868.

From—Lieutenant E. G. Wace, Assistant Settlement Commissioner, Gujrát,

To—The Settlement Commissioner, Punjab.

I have the honor to forward, for your perusal, copies of the final proceedings drawn up for the ascertainment of the customary law concerning proprietory rights in the alluvial lands of the Chenáb and Jhelum Rivers. On the Chenáb throughout its course between the boundaries of the Gujrát district on its right (north-west) bank and the Siálkot and Gujránwála districts on its left (south-east) bank the hadd sikandri prevails. The same custom prevails on the Jhelum down to the point where the Khárián tahsíl ends. At that point the Barhna Nalla joins the Jhelum, and owing primarily to the autumnal floods brought down by this Nalla, the Jhelum below the junction of the Barhna becomes so variable in its main stream and so destructive in its action that the zamíndárs of the villages on both banks have long since divided the alluvial lands permanently between them, and each village has a fixed boundary which is unaffected by the changes the river may take. This is known as the wár-pár or burji (or bútti) banna system.

How drawn up.

2. The proceedings as regards the Jhelum were drawn up by myself in concert with Zulfikár Ali, Extra Assistant Commissioner of Jhelum, who was deputed for the purpose by the Deputy Commissioner of Jhelum, and those regarding the Chenáb by the Extra Assistant Settlement Commissioners of Gujrát and Gujránwála.

Limited to recording usages.

3. The proceedings in both cases have been strictly limited to recording usages which have prevailed during the past. It is possible, but I do not think likely, that points of dispute will arise in future which the usages of the past do not meet. But the zamíndárs on the Jhelum appeared to be so far from unanimous in their opinions, when new suggestions were discussed, that I felt that any attempt to carry through their introduction would result in discord and end with litigation, the final orders on which would probably restore the simple old usage.

4. At the same time it is my duty to take the present opportunity to point out to you that the voice of the intelligent portion of the agriculturists is very strongly condemnatory of the "sikandri hadd." They stigmatize it as a relic of the days of misrule, describing its origin in the very words of our old proverb:—

"They should take who have the might
"And they should keep who can";

few zamíndárs in the old days being strong enough to maintain their hold on land from which the main stream cut them off. They term it a game of gambling, and are weary of a custom which, though all else round them is under our firm rule settled and secure, makes the zamíndárs who own the alluvial lands the victims of every new set that the rivers from year to year may chance to take. I cannot describe the evil of this sikandri hadd in more appropriate terms than these, and that the zamíndárs themselves should speak of it in such forcible terms is, I think, a very strong argument for our interfering.

5. On the Jhelum in all villages below the junction of the Barhna with it (opposite the end of the Pabbi Hills) the custom of wár-pár or burji banna prevails universally. By the custom the properties of each village on the river's edge have known limits which never change, no matter how the river's course changes. The same law prevails on the Indus in the Dera Gházi Khan district. That it should have been found possible not only under our rule, but in the former times of comparative anarchy, to maintain such a law is an additional argument for our interference to do away with the hadd sikandri; and this argument is strongly urged by the zamíndárs themselves.

6. The only zamíndárs who are adverse to the repeal of the hadd sikandri are either those who have at present more river land in their possession than their fair share, or those whom the present set of the river's main stream encourages in the hope that they will soon have. But it is obvious that the repeal of the hadd sikandri and the introduction of permanent boundaries would really deprive no one of any permanent rights. In the long run of years the river does equal harm to both sides: it sometimes sets one way, sometimes another. All that the change in the law would do would be to secure to each side in a comparatively unfluctuating and continuous shape the average of the extremes of profit and loss to which they are now subject.

7. It may possibly be asked why, if the advantages of a change are so apparent, I am of opinion that the zamíndárs cannot be induced to carry it out themselves. The difficulties are these :—

(*a*). The change would need the consent of every co-parcener in each set of the village proprietory bodies which are opposite each other. For the reasons given at the beginning of paragraph 6, this cannot be obtained.

(*b*). Supposing, however, that all were to consent, I should only have got to the beginning of my difficulties. I should have to divide the alluvial lands. The most obvious method of division is to divide the alluvial lands by a line carried down their centre at an equal distance from the pakka bank on each side. But further reflection shows that this division would not be fair, and I am sure it would besides be opposed. Any one who knew the river could point to places in one bank where the river has been steadily cutting into the pakka bank for years past, and would be places where it had not cut away within the present generation. We should find some villages situate a mile from the pakka bank, and others close below the walls of which the river is now cutting. The zamíndárs of the latter would argue that when they founded their village the pakka bank was far away, and that therefore they should not now get only half of the river's present bed.

(*c*). Again, supposing we were to try to meet the difficulty by inviting the opposing zamíndárs to give a petition on the revenue side of our Courts to the effect that they were joint owners of the alluvial lands (this would be undoubtedly a correct statement); that their mutual possession had hitherto been ruled by the hadd sikandri (deep stream boundary), but that they now wished a permanent partition to be effected. Here, again, the same difficulty would soon meet us—the shares in the joint ownership would be disputed, and we could not proceed to partition till they were settled.

On a full consideration of all these objections, I have come to the conclusion that the result of any attempt to change the hadd sikandri law by mutual agreement of parties would be a suit by a few dissatisfied persons in the Civil Courts to try the right or to dispute our award on the ground that it was contrary to the shares that the plaintiffs conceived they were entitled to with reference to the antecedents and present situation of their property; and I fear that the result of the litigation would very probably, perhaps inevitably, be a verdict that as the plaintiffs were dissatisfied with the change the old law must be followed. One such adverse verdict would be quite sufficient to upset the whole previous concord of the majority, and it would be likely enough that our whole proceedings would fall through amidst much annoyance to, and litigation among, the proprietors.

8. *Because* I feel that it is a very serious responsibility, even when undertaken in the interest of a great benefit, to run the risk (1) of the introduction of such discord among the proprietors and further (2) of the consequent discrediting both in their eyes and in the eyes of the Civil Courts of our settlement proceedings; *and because* I believe that the weight of the opinions of all the chief revenue authorities in the Province is in favour of the abandonment of the hadd sikandri, I would ask you to consider whether there is not here a fair case for interference by a legislative enactment.

The legislative enactment is needed—

I.—To give the Local Government power to annul by an administrative order on good cause shown the old hadd sikandri law in any given locality.

II.—To enable the Local Government to appoint an officer with power to apportion finally to the estates on each bank of a river, in respect of which such an order might be issued, their respective shares of the alluvial lands. His orders to be final and to have the force of a judicial decree.

This second point is a thing that no ordinary Civil Court can do. An ordinary Civil Court can only enforce existing rights as proved by past facts. But what such an officer would have to do would be to introduce a new system, and the basis of his awards would be not *right* as previously exercised, but a balancing of contending *claims*.

9. It may possibly be urged that the legislature has by regulation of 1825 directed the hadd sikandri to be adopted wherever possible. But that regulation was passed long before the Punjab passed under our rule; and I think a careful perusal of its wording alone would lead to the belief that it scarcely contemplated such aggravated cases as these of the Punjab. rivers, the beds of which are in the hot weather miles broad, and where a zamíndár under the hadd sikandri law may one season be paying to Government a rent roll of one rupee, and the next season of Rs. 2,000 and *vice versâ*.

10. It is also my duty in the interest of Government to point out that the results of the enquiries now reported afford strong grounds for apprehending that, if the zamíndárs of interested villages on the rivers' banks were to oppose in the Civil Courts the assumption by the Government of new belás, the Civil Courts would be obliged on the evidence to decree the proprietary rights in these belás to the zamíndárs; specially would this be the case where the hadd Sikandri prevails. It may be difficult, and perhaps unnecessary, for Government to retract in the cases of belás already taken up, but it seems desirable (in order to keep on the safe side) that whatever belás are taken up for the future should be taken up under the legal procedure for appropriating land for public purposes. Should you agree with me in this view, I would suggest that the matter be submitted to the Financial Commissioner for his orders.

11. With your permission I propose to publish the final proceedings annexed to this letter with the final report on this settlement.

No. 48, dated 21st January 1869.

From—J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab,
To—T. H. THORNTON, Esquire, Secretary to Government, Punjab.

I AM directed to submit in original, for the orders of Government, a letter, No. 350, dated 24th December 1868, from the Commissioner, Lahore, with enclosure, on the subject of determining the limits of jurisdiction in cases of alluvion and diluvion in villages bordering on the Sutlej in the Lahore and Ferozepore districts, and to state that, in the Financial Commissioner's opinion, the question of determining the boundaries of districts separated by the river Sutlej may be settled independently. The question of the rights of landholders is distinct. The deep stream of the Sutlej has hitherto been considered the boundary between the districts of Lahore and Ferozepore. Mr. Egerton sees no reason at present for altering this boundary.

2. The objections stated in para. 7 of Mr. Smyth's letter have some weight no doubt, but they are trifling compared with the objections which exist to the plan of following the boundaries of estates as the boundaries of districts when such a river as the Sutlej intervenes.* It is most undesirable that there should be anything resembling a conflict regarding jurisdiction between the Deputy Commissioners of two districts, and unless the deep stream of the Sutlej is maintained as the boundary of the respective districts, something resembling a conflict will certainly occur. Mr. Egerton thinks, therefore, that it is advisable each year after the rainy season, or say on the 1st October, that the Deputy Commissioner of each district (Lahore and Ferozepore) should decide from the reports of their tahsíldárs, or from the reports of such other officers as the Commissioner may direct to survey the river, what changes in jurisdiction have been rendered necessary by the alterations which have taken place in the course of the river, and that all lands, whether islands, recognizable village lands, or alluvial accretions, shall be held to pertain to the jurisdiction of the Deputy Commissioner of the district which lies on the same side of the deep stream of the river.

3. The question of private rights in those lands will then be decided by the Deputy Commissioner of the district in which the lands may have been thus decided to lie, according to the existing custom; as both sides of the river are in British territory it is comparatively immaterial which Deputy Commissioner decides the cases, and all conflict of jurisdiction will be avoided.

4. The proceedings of the Deputy Commissioner in determining the preliminary question of jurisdiction may set forth the names of the villages under which the deep stream lies, together with such other known landmarks as may exist near the river at the time of the annual survey.

5. Where necessary, any transfers from the rent roll of one district to that of another may be reported at once for sanction. This will be required only when revenue-paying lands have been transferred bodily from one district to another; ordinarily such transfers do not occur.

In the case of islands, no transfer of jurisdiction should be made until the course of the deep stream changes decidedly from one side of the island to the other; when the streams are nearly equal, it is undesirable to change the jurisdiction.

No. 350, dated 24th December 1868.

From—Lieut.-Colonel H. W. H. COXE, Officiating Commissioner and Superintendent, Lahore Division,
To—W. COLDSTREAM, Esquire, Officiating Secretary to Financial Commissioner, Punjab.

I HAVE the honor to forward, for perusal and orders, a letter from the Deputy Commissioner of Lahore, No. 544 of 17th instant, on the subject of dealing with questions of alluvion and diluvion, as connected with the villages bordering the Sultej in the Ferozepore and Lahore districts.

2. I have conveyed, my opinion on the general question, as to the decision of the cases, in my letter No. 262—2447 of 28th September last, but Mr. Smyth seeks a particular ruling with reference to the jurisdiction of the Lahore and Ferozepore districts.

* See Punjab Government Notification No. 550, dated 11th September 1891, which declares the boundaries of the river villages on the Sutlej in Lahore and Ferozepore to be the boundaries of the two districts.

3. With all its drawbacks, I am of opinion that the deep stream rule is the best to abide by in determining district boundaries, as the case stands at present; and I would recommend that the course indicated in the Circular (No. 16 of 1868) of the Board of Revenue, North-Western Provinces, quoted by the Deputy Commissioner of Lahore, be acted upon at once.

4. I consider that it would be very advisable hereafter to revise the boundaries of the two districts, and no longer to limit jurisdiction to the river bound, but orders are required for present and immediate action; and I have therefore recommended that the Deputy Commissioners of Lahore and Ferozepore be instructed to proceed in accordance with the circular above quoted.

No. 541, dated 17th December 1868.

From—J. W. Smyth, Esquire, Deputy Commissioner of Lahore,

To—Lieut.-Colonel H. W. H. Coxe, Officiating Commissioner and Superintendent, Lahore Division.

You are aware that the procedure to be followed in dealing with questions of alluvion and diluvion on the Sutlej has for some time been under consideration, and that definite rules on the subject are very much required. Mr. Saunders, Settlement Officer, has addressed me on the subject in his letter No. 780 of 1st instant, a copy of which he has forwarded to you, and my object in now addressing you is to request that, pending the issue of general orders on the subject, you will be good enough to lay down some rules for the guidance of the Deputy Commissioner of Ferozepore and myself in determining the limits of our respective jurisdiction.

2. The subject of river action divides itself naturally under two heads—one relating to the determination of the boundaries of districts or other administrative subdivisions, the other relating to the determination of private rights in the land affected by the river. The latter class of questions can, in the present state of things, only be authoritatively dealt with in the ordinary course of law by the Civil Courts, and their decision must be mainly regulated by the custom found to prevail on the river.

3. But the determination of district boundaries is an administrative question, and it is very desirable that some definite understanding should be come to between the Lahore and Ferozepore district authorities in regard to the principles which are to guide them in determining the limits of their respective districts.

4. At present the deep stream is understood to be the boundary, but only in a general kind of way. In former years, when the land on the Ferozepore side was under the British Government and that on the Lahore side under the Sikhs, the deep stream was no doubt strictly adhered to as the boundary. But now that both banks are under British rule, the deep stream is not strictly adhered to, and a custom has been growing up (only of late it is said) of making the district boundary co-terminous with the boundaries of villages situated on river banks. Suppose, for instance, a village in the Lahore district whose lands in 1867 were situated wholly on the Lahore side of the river: it is on the Lahore rent-roll, and is clearly in the Lahore district. But in 1868 the river makes a set against the Lahore side, and the village is divided right in two—half of the village lying on the Ferozepore side of the deep stream, and half on the Lahore side. How is an assistant deputed for alluvial operations to dispose of such a case? Regarding the private rights on the land there is no difficulty; at any rate, that is a separate question which I do not at present raise. The point only on which I solicit instructions at present is in regard to the district boundaries; and the question is, does the half of the village transferred to the Ferozepore side of the deep stream belong to the Ferozepore district, or is it to be considered as still belonging to the Lahore district?*

5. If the rule of the "deep stream" were to be followed strictly, there would be some doubt on the point; the portion which was transferred to the Ferozepore side would be incorporated with the Ferozepore district. Jaishi Rám, when he was Extra Assistant Commissioner of Kasúr, contended strongly for the deep stream being strictly adhered to as the boundary of the district.

* This question was decided many years later by the issue of Punjab Government Notification No. 550, dated 11th September 1891, declaring that the district boundaries of Lahore and Ferozepore shall agree with the boundaries for the time being of the border estates.

It certainly has one great advantage that being easily determinable there can be little doubt as to district jurisdiction, or as to the authorities before whom claims to river land should be made ; whereas, if the district boundary is to follow the boundaries of villages, and if these boundaries are continually shifting, there is the greatest uncertainty as to jurisdiction. Before determining the district boundary it becomes necessary to determine the private rights in the lands, to see what villages they belong to ; and yet how can those rights be determined until it is known what authorities have jurisdiction ? In other words, before the district boundary can be fixed, it is necessary to determine the village boundaries ; and before the village boundaries can be authoritatively fixed in disputed cases, it is necessary to know in what jurisdiction, that is, in what district the land is situated.

6. This is the dilemma in which the authorities of the two districts are landed in cases where lands are claimed by different villages situated on different sides of the deep stream. The case referred to by Mr. Saunders is of this kind. And such cases must occur so long as the district boundary is held to follow the boundaries of river villages, and not strictly that of the deep stream.

7. On the other hand, there are many objections to following the deep stream strictly as the district boundary. Villages intersected by the deep stream would be placed under a divided jurisdiction, and pay their revenues partly in one district and partly in the other. Moreover, in disputes about lands there is a tendency among the patwárís and others to favor the interests of the villages lying on their own side of the river. For instance, suppose there is alluvial land thrown up on the Ferozepore side of the deep stream, it is claimed both by village A situated on the Lahore side of the deep stream and by village B situated on the Ferozepore side of the deep stream. The land in dispute being on the Ferozepore side of the stream, and the deep stream being taken as the boundary of the two districts, the case would fall within the jurisdiction of the Ferozepore Courts. In such cases it is alleged that there would be a tendency on the part of the Ferozepore authorities (or of the Lahore authorities, if the case were *vice versâ*) to favor the village B situated in their own district. I believe this objection is well founded as regards patwárís and the inferior ministerial agency.

8. The objection to the district boundary being regulated either by the "deep stream" or by the boundaries of river villages, appear to me so strong and so insuperable that I should prefer to see the same system introduced on the Sutlej in regard to district boundaries as has been followed on the Rávi in regard to tahsíl boundaries. The Rávi has been abandoned as the boundary between Parganah Sharakpur and Parganahs Lahore and Chunián, and the boundaries of the two latter parganahs have been extended across the Rávi so as to include a narrow strip or fringe of villages on the northern bank. The Rávi by this arrangement flows for the upper half of its course in this district through the Lahore tahsíl alone, and for the lower half through the Chunián tahsíl alone; and there is no room for conflict of authority or jurisdiction between neighbouring tahsíldárs.

9. I do not see why this arrangement should not be followed on the Sutlej. For bridge and ferry purposes the river is considered as falling under the jurisdiction of the Ferozepore authorities; and I would extend the boundary of the Ferozepore district so as to include a narrow strip of villages along the river bank on the Lahore side.

10. Whatever arrangement be adopted, orders one way or the other are urgently required. The season for dealing with alluvion and diluvion operations has again come round, and again the tahsíldárs and Assistants will be sent to the river without any definite rules for their guidance.

11. Whether the "deep stream" or the limits of river villages be taken to determine the boundary of the district, the procedure laid down in the Circular of the Sadr Board of Revenue, North-Western Provinces, quoted by Mr. Saunders, seems in every way suitable, and if you approve of it, I shall be glad if you will issue orders to that effect to the Deputy Commissioner of Ferozepore.

No. 198, dated 6th February 1869.

From—T. H. THORNTON, Esquire, Secretary to Government, Punjab,

To—J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab.

IN reply to your letter No. 48 of the 21st January, I am desired to communicate the approval of His Honor the Lieutenant-Governor to the proposal that the deep stream of the Sutlej River shall be deemed the boundary between the districts of Lahore and Ferozepore, and I am to convey authority to the Financial Commissioner issuing instructions for the annual determination of the boundary in the manner described in your 2nd paragraph.

I am desired to enquire whether the Financial Commissioner would recommend the extension of the rule to other districts bordering on the Sutlej, or any other of the Punjab rivers.

No. 154, dated 2nd March 1869.

From—J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab.

To—T. H. THORNTON, Esquire, Secretary to Government, Punjab.

IN reply to No. 198 of 6th February, intimates that the proposal to regard the deep stream of the Sutlej as the boundary between adjoining districts should, in the Financial Commissioner's opinion, be applied to all districts throughout the course of that river, but, as Mr. Egerton is not at present aware whether inconvenience in respect to jurisdiction has been experienced on other rivers, he is not prepared to suggest the extension of the rule to other rivers.

NOTE.—In consequence of the foregoing correspondence the following Notifications of Government were published in the *Punjab Gazette* :—

Notification, Revenue Department, No. 197, *dated 6th February* 1869.

Under the authority vested in him by Section I of Act VI of 1867, the Hon'ble the Lieutenant-Governor is pleased to declare that the deep stream of the river Sutlej shall, until further orders, be the boundary separating the districts of Lahore and Ferozepore.

Notification, Revenue Department, No. 344, *dated 6th March* 1869.

In continuation of *Punjab Government Gazette* Notification No. 197 of the 6th February 1869, His Honor the Lieutenant-Governor is pleased to declare that the order constituting the deep stream of the river Sutlej, the boundary between adjoining districts, shall apply to all districts throughout the course of that river.

No. 730, dated 9th September 1869.

From—J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab.

To—T. H. THORNTON, Esquire, Secretary to Government, Punjab.

From Registrar, Chief Court, No. 1978, dated 19th June 1869.
Secretary Financial Commissioner, to Commissioner, Jullundur and Amritsar, Nos. 5463-64, dated 9th September.

I AM desired to forward, for the information of His Honor the Lieutenant-Governor, the original correspondence marginally noted, from which it will be seen that the subject of river law has again been forced on our attention. On that portion of the Beás River which flows between the Hoshiárpur and Gurdáspur districts, the old custom, an extreme form of the customs known indifferently by the names of *kishtibanna*, *kách-mach* and *sikandri hadd*, prescribes that change of proprietary and occupancy rights follows a change in the course of the river, thereby involving great hardship to individuals and the loss of revenue, in some cases, to Government. Mr. Melvill designates the custom as here described "extreme," because on the upper portion of the Sutlej the *kishtibanna* plan is not believed to involve the results above specified.

2. His Honor will recollect that in 1860 Mr. Cust, when officiating as Financial Commissioner, proposed a Code of river law for the whole Punjab. The Lieutenant-Governor (Sir R. Montgomery) took no direct action in the matter, but referred it for the opinion of the Financial Commissioner, the present Lieutenant-Governor of the Punjab.

Nothing has been done up to the present time, it evidently being felt that the information available was not sufficient to warrant the issue of any general instructions.

3. It cannot, the Officiating Financial Commissioner believes, be denied that the form of kishtibanna prevailing on the upper part of the Beás is most objectionable, and that the "wár-pár," or fixed boundary system, is practically unsuitable, and that where these systems obtain they should be removed as soon as possible, ancient custom (if such really exists) notwithstanding.

But as the information on the subject generally is not so complete as is desirable, Mr. Melvill would suggest that he be authorised to have selections from the correspondence printed and circulated to all Commissioners and Deputy Commissioners for report,—1st, as to the custom prevailing on the different portions of the rivers within their jurisdiction; 2nd, as to the advisability or otherwise of adopting Mr. Cust's river Code.

4. The general correspondence is not forwarded, as its examination, which would involve delay, may not be thought necessary.

No. 1978, dated 19th June 1869.

From—T. W. Smyth, Esquire, Registrar, Chief Court, Punjab,

To—J. A. E. Miller, Esquire, Secretary to Financial Commissioner, Punjab.

Sodha and Mada (Plaintiff's), Appellants, *versus* Fatteh Khan and others (Defendants), Respondents. Claim—617 ghumáos of alluvial land assessed at Rs. 52.

I am directed to forward, for the consideration of the Financial Commissioner and the issue of any orders which he may deem necessary, a copy of the decision of the Chief Court in the case noted in the margin, in which is discussed the validity and character of a document, dated 5th February 1867, executed by the proprietors of some villages on the river Beás in the Hoshiárpur and Gurdáspur districts at the suggestion of the Deputy Commissioners of these districts.

2. The Chief Court, I am to observe, would welcome the introduction of any improvement on the custom of "kishtibanna," provided that it be lawfully effected and the new rule can practically be enforced.

3. It does not appear to the Court that the rule suggested by the Deputy Commissioners of Hoshiárpur and Gurdáspur is a valid one or any improvement on the old custom. Whatever defects the rule of "kishtibanna" may have, it has at least this great merit, that it admits of easy application to the shifting features of the country from year to year.

4. The application of the theory of fixed boundary proposed by the Deputy Commissioners of Hoshiárpur and Gurdáspur presents difficulties which are almost insuperable in practice. As long as the boundary originally laid down has not been carried away, the plan proposed would answer admirably; but if at any time the boundaries become effaced by the action of the river, their accurate demarcation *de novo* is an operation of some difficulty in case of the very best surveyors; and it is simply an impossibility in the case of the native surveyors, who are at the disposal of Deputy Commissioners for that purpose.

5. Besides, were it otherwise, the operation would necessitate extensive annual re-measurements across a broad river, which would involve an amount of interference on the part of the subordinate native officials with the villages concerned, which would be vexatious in the extreme. Moreover the difficulty which would exist in checking the correctness of these measurements would lead to endless disputes and place a premium on corruption.

6. The Chief Court has the less hesitation in recording these views, because the existence of the difficulty which has been alluded to does not rest only on theory, but has been well ascertained by practical experience in regard to boundary lines between the British Government and several Native States.

7. If the proprietors are inclined to consent to an alteration in the existing custom of "kishtibanna," the Judges are of opinion that the influence

of the Deputy Commissioners should be directed to the adoption of the rules laid down in Section 4 of Regulation XI of 1825, which are nearly as easy of application as the rule of "kishtibanna," while they remove the main evils which spring from that custom.

8. The Court further desires to observe that Mr. Perkins is in error in stating that the measure which has now been carried out at Major Young's suggestion is the very same as that recommended by Colonel Lake in the 6th para. of his letter No. 384, dated 6th December 1859. The measure recommended by Mr. Simson, and concurred in by Colonel Lake, was the same as that now suggested by the Judges, *viz.*, the application of the rules laid down in Section 4 of Regulation XI of 1825.

9. The Judges have thought it incumbent on them to make the above remarks, as they think it highly desirable that the principles upon which these claims are to be decided should be made known to the district authorities. The ultimate appeal, as in the present case, lies to the Chief Court; and it is very unsatisfactory to have to make a decree the effect of which is to jeopardize, or perhaps overturn, extensive proceedings affecting some 133 villages taken by the district revenue authorities under a misconception of their powers.

10. The Judges at the same time do not forget that it rests with the Financial Commissioner alone to determine whether it is necessary to issue any or what orders to the Deputy Commissioners of Hoshiárpur and Gurdáspur in the Revenue Department on the subject, and by these observations they have no desire to fetter his discretion in the matter in the slightest degree.

JUDGMENTS OF THE CHIEF COURT.

SODHA AND MADA, of Samrai—(Plaintiffs)—

APPELLANTS,

Versus

FATTEH KHAN, RAHMAN KHAN, AND UMAR KHAN,

of Tahli—(Respondents)—DEFENDANTS.

Appeal from the order of the Additional Commissioner, Jullundur.

CLAIM:—For 617 ghumáos of alluvial land, assessed at Rs. 52.

Judgment.—The plaintiffs are the proprietors of Mouza Samrai in the Gurdáspur district; the defendants are the proprietors of Mauza Tahli in the district of Hoshiárpur, and the river Beás flows between them.

This was a suit to set aside an order of the 14th July 1867, passed by the Deputy Commissioner of Hoshiárpur on the revenue side, confirming a boundary between two villages laid down by assessors who were selected by the tahsíldár of Dasúya.

For the right understanding of the case, it is necessary that we should first explain the peculiar circumstances, as disclosed in the Deputy Commissioner's return of the 20th March to the precept of this Court and the correspondence obtained from the Commissioner's office, which led to the demarcation of this boundary.

The district of Gurdáspur is separated from the district of Hoshiárpur by the river Beás, and it appears that from annexation up to the commencement of 1867 claims to alluvial land between the villages on the opposite banks of the river were uniformly decided by the Courts of both districts according to the rule known as *kishtibanna*, otherwise called the deep stream rule. At the regular settlement in the *wájib-ul-arz* of all the villages the same rule was recorded. According to this rule the transfer both of proprietory right and of cultivating possession followed the transfer of the land from one bank of the deep stream of the river to the other, and this change of property and cultivation took place even when the land was transferred bodily to the opposite bank by a sudden change in the course of the river, which did not carry away the surface of the ground or destroy its identity. The insecurity for property, and the other evils which obviously result from the application of such a rule to the decision of these claims, pressed themselves on the attention of the Deputy Commissioner of Hoshiárpur in 1858, and in his letter No. 705 of the 10th December he brought the matter to the notice of the Commissioner of the division, who eventually referred the question to the Financial Commissioner by his letter No. 384, dated 6th December 1859. Some correspondence then ensued between the Financial Commissioner and various Commissioners with a view to ascertaining the custom which prevailed in other parts of the province, but no order seems to have been issued by the Financial Commissioner

on the subject. The question seems to have remained in this state till 1867, when Mr. Perkins, Deputy Commissioner of Hoshiárpur, in a letter No. 67, dated the 8th February, reported to Mr. Forsyth, the Commissioner of the division, that at a meeting at Naushahra Ghât on the 5th idem, held by himself and Major Young, Deputy Commissioner of Gurdáspur, and attended by the "local notables" on both sides of the river, the people had consented to abolish the law of *kach-mach, kishtibanna*, or *sarhaddi sikandar* which had lately prevailed on the Beás.

Mr. Perkins then describes what took place as follows :—

"At the meeting the following questions were put to the *zaildárs*, and answers obtained "from them with the general concurrence of all the assembly.

"*Question*. Does the law of *kishtibanna* exist in your part of the river ?—*Answer*. "It does.

"*Question*. What do you understand by the law of *kishtibanna* ?—*Answer*. That the "deep water is the absolute boundary of proprietory rights, which change with the stream.

"*Question*. Since when does it prevail ?—*Answer*. The answers to this were various. "Some stated that it was introduced by the Sikhs, and some by our Government at the "time of the summary settlement. They all appeared to agree that it did not exist under "the Emperors.

"*Question*. What is your rule regarding land ?—*Answer*. That the ownership changes "absolutely with the depth of the stream even if the land can be identified.

"*Question*. What is the rule regarding standing crops ?—*Answer*. If the deep "water changes its course the growing crop changes owners. The person who raised it "cuts it, and pays *málikána* to the new owner of the soil.

"*Question*. What is the rule regarding a village entirely cut away ? If the land "re-appears where the old village was, do you assign it to former proprietors, or does it "belong to those whose villages it then adjoins ?—*Answer*. In such cases it is the custom "to give the land to old proprietors. The case of Amani Bagrian (now partly occupied "for a plantation) and others were quoted as totally new deposits restored to former pro- "prietors.

"*Question*. Do you consider it a good custom and worthy to be adhered to ?— "*Answer*. No.

"*Question*. How do you propose to alter it ?—*Answer*. By mutual agreement in "boundaries where possible, otherwise by arbitrators or by an order of Government."

Mr. Perkins goes on to say :—"These questions and answers elicited the incidents "of the custom pretty well, and also the unanimous wish of all but the owners of some five "villages now enjoying large accretions, that the custom should be changed. They then "all put their seals and signatures to a document agreeing to lay down boundaries for them- "selves which they would abide by in future irrespective of changes in the course of "the river. It appears that on both banks of the Beás, as far as it divides the districts of "Hoshiárpur and Gurdáspur, there are about 133 villages liable to fluvial action. In "about 100 of these cases the boundaries will be adjusted by the people themselves, merely "requiring the executive orders of the two District Officers to their tahsíldárs to lay "down the boundary marks accordingly. In some other cases the people will appoint "arbitrators, whose decision they will accept, and the boundaries will be thereon adjusted. "Only 3 or 4 cases are likely to be contested, and in them the matter can be also settled "by the joint action of the Deputy Commissioners.

"The above decision does not of course interfere with the jurisdiction and revenue. "This will of course be governed by the deep stream, as was remarked by Colonel Lake in "his letter to the Financial Commissioner, No. 384, dated 6th December 1869. In the "6th para. of that letter he recommends the very measure which has now been carried out "by the people themselves at Major Young's suggestion."

In his reply, No. 143, dated 16th April 1867, the Commissioner, Mr. Forsyth, stated that "the custom detailed as being in force at Naushahra was peculiar to that "locality, and quite contrary to the custom elsewhere, and was repugnant to sound sense. "He could not help thinking that it must have been created by the ignorance of some "official in the early days of our rule, for he observed that the people deposed to its being "of recent origin. Mr. Forsyth quite approved of the arrangements proposed by the "Deputy Commissioner and gave his formal sanction thereto."

On the 1st April 1867 the Financial Commissioner enquired how the arrangements made by the Deputy Commissioners of Hoshiárpur and Gurdáspur answered, and a copy of the above correspondence was forwarded to him by the Commissioner of Jullundur in reply. No orders, however, appear to have been passed by the Financial Commissioner on the subject.

At the first hearing of this appeal in this Court it became apparent that the main point at issue between the parties was as to the rule according to which the boundary between their villages should be laid down. It also appeared that the rule of *kishtibanna* had

hitherto governed cases of disputed boundary,—that is, cases of alluvion and diluvion between these two villages—and that the Deputy Commissioner had departed from this rule in deciding this case on account of some agreement come to by certain zamíndárs at what he called the "Naushahra conference." But as the nature of the proceedings was not recorded in the file of this case, and it was not stated in the Deputy Commissioner's decision how far the parties to this case were parties to that agreement, a precept was addressed to the Deputy Commissioner requesting further information on these points.

The Deputy Commissioner's return to this precept is dated the 30th March. Some of the information which it contains has already been given in the abstract of the correspondence given above, which we subsequently procured after some difficulty, but in order that the Deputy Commissioner's view of the case may be more fully brought out we insert his return at length here:

Mr. Perkins writes:—"At the Naushahra conference alluded to in the Chief Court's "order, representatives from every village on both sides of the river in the two districts of "Hoshiárpur and Gurdáspur were invited to attend, and did attend. A document was "drawn up and signed or sealed by all, or nearly all, those present testifying consent to the "proposed arrangements. This document was forwarded with its file to the Chief Court in "company with the files either of this case or the other one between the proprietors of the "villages of Alwan and Khwájabáis. I cannot therefore refer to it to say which, or how "many, of the proprietors of Samrai assented to its conditions; the Chief Court can ascer- "tain this by reference to it. I have no doubt, however, that only the lambardárs did so, "but I would respectfully suggest that, in doing so, they acted as representatives of the "whole body, which was bound by their acts: for the object of the meeting was well made "known beforehand, and those who came, came knowing what was the proposition on which "votes were to be taken.

"This Court decided the case now under discussion on the principle that *kishtibanna* "was a custom; that an immense majority of the persons interested desired it to be changed "for the law of fixed boundaries, and the minority were bound to abide by the decision of "the majority; that this majority was, and is, overwhelming is proved by the fact that the "proprietors of only three villages have lodged suits to contest the awards of arbitrators or "administrative orders made in accordance with this decision of the majority, and this out "of about 133 villages interested. In short, this Court treated it as a question, not between "the members of any special village, but between the members of a large community "occupying villages on both banks of a river through some 20 miles of its course; or, in the "'commentator's words, 'each district mutually sacrificing some of its own special usages, "in order that the whole may enjoy the benefit of the same uniform and universal system "'of laws'—*Stephens' Commentaries, Introduction, Sections III, II.* So much for the law.

"As regards the equities of the case, I would respectfully beg to draw the Court's "attention to the fact stated in my judgment, that by this decision the appellants have "obtained more land than their average possessions of fifteen years past, and that, if the "decision be reversed, the chances are very strong that they will suffer eventually from the "next diversion of this most erratic river, and get absolutely less than this judgment awards "them; and this apart from the administrative confusion and ill-feeling which yearly altera- "tions and consequent litigation will introduce.

"The Court probably has before it my letter to Commissioner, No. 67, dated 8th "February 1867, and his reply, No. 143, dated 16th April, in which the matter is discussed "administratively; and the question put to the members of the conference, with their "answers, are set forth. From one of those answers it appears very doubtful whether this "law of *kishtibanna* was not a mere creation of our Settlement Officers. It was certainly "alien to the old law of the country under the Muhammadans; and, if a creation of the "settlement, it is doubtful if it was legal, and whether the present custom as now established is "not in truth the only real and legal custom. For the first requisite of a custom is that 'it "'must have been used so long that the memory of 'man runneth not to the contrary.'"

The first point for determination in the aspect which the case has now assumed is whether the custom of *kishtibanna* was, previous to the agreement at Naushahra Ghât, of the 5th February 1867, applicable to the villages of Samrai and Tahli, and therefore binding on the parties, and would have governed this case. We think that there is hardly room for entertaining a doubt that the custom has been fully established.

It is acknowledged on all hands that the existence of the custom was recognized at annexation, and that it was uniformly acted on from that time to 1867, a period of about 20 years, by the successive officers and other revenue officials of the districts of Gurdáspur and Hoshiárpur, and by all the zámíndárs on both sides of the river. It appears further that the custom was formally recognized at the regular settlement in the *wájib-ul-arzes* of the villages in both districts as a local custom binding on the zámíndárs. We find in 1858 the Deputy Commissioner of Hoshiarpur, after representing to the Commissioner the evils of the custom, with a view to its abolition, obliged to admit its existence as the result of his local enquiries, and the Commissioner, Major Lake, arriving at the same

conclusion, and assigning as one of the reasons for his opinion that, if the practice had not prevailed from time immemorial and it had been an innovation of ours, the people would have complained.

But a doubt has been cast on the existence of the custom by Mr. Perkins, the Deputy Commissioner of Hoshiárpur, and Mr. Forsyth, the Commissioner of Jullundur. The Deputy Commissioner says in his return to the Commissioner :—"From one of those answers it "appears very doubtful whether this law of *kishtibanna* was not a mere creation of our "Settlement Officers. It was certainly alien to the old law of the country under the "Muhammadans; and, if a creation of the settlement, it is doubtful if it was legal, and "whether the present custom as now established is not in truth the only real and legal "custom. For the first requisite of a custom is that 'it must have been used so long that "the memory of man runneth not to the contrary.'" The Deputy Commissioner does not express a distinct opinion that the custom did not exist at annexation, he only raises a doubt upon the point.

Such a doubt in the face of the evidence in favor of the custom which we have recited above could not prevail; but there seems little foundation, on the grounds stated by the Deputy Commissioner, for the doubts which he entertains. The answer which he alludes to as given by certain *zaildárs* is as follows:—"Some stated that it was introduced "by the Sikhs, and some by our Government at the time of the summary settlement. They "all appeared to agree that it did not exist under the Emperors." Now, we are not told who the various witnesses are who gave the different answers, and no attempt is made to weigh the amount of credit which should be attached to each, the extent of his knowledge of by-gone times and Governments, or the correctness of his memory. But assuming, as on this account we must, that the evidence on both sides is entitled to the same weight, the conclusion at which we should arrive from the answers referred to is altogether different from that formed by the Deputy Commissioner. The only safe conclusion under all the circumstances appears to us to be that the discrepancies as to the time when the rule of *kishtibanna* was first accepted by common consent were caused by the length of time which had elapsed since the rule was introduced; in fact, that the time and manner of the origin of the rule were beyond the memory of the witnesses or certain tradition—in other words, that the rule has existed from time immemorial. The Deputy Commissioner in his present return also says that the custom "was certainly alien to the old law of the country "under the Muhammadans." We are not aware of the evidence on which he rests this opinion, and we certainly cannot accept the answer of the *zaildárs* as sufficient to support it. In their answer it is said that they all appeared to agree that it did not exist in the time of the Emperors. This hardly amounts to an expression of certainty on the point; and, if it did, we should not be disposed to rely on the consistency of their evidence with regard to so distant a time, beyond the recollection of the oldest of them, in the face of the discrepancies in their statements as to Governments and events of so much more recent a date. Apart from this evidence, we have no reason to suppose that the rule has not existed from time immemorial. It is not peculiar to the Upper Beás, as Mr. Forsyth supposed, but it exists certainly on the Sutlej, and probably elsewhere besides.

But the Deputy Commissioner's views on the whole question do not seem to be very settled, as will appear in considering the second point in the case, which is whether the custom of *kishtibanna* has been lawfully superseded by the rule contained in the agreement of the 5th February 1867; and this again depends upon the question whether this agreement is binding upon the parties to this case.

Now it is not very clear what the character of this document according to the Deputy Commissioner's view of the matter is. It is styled an agreement, which conveys the idea of a contract, but the Deputy Commissioner does not appear to have used the word in this sense. One of the most essential requisites of a contract is that it should have the reciprocal consent of the parties to be bound by it, and this is not the case here. It is not alleged that all or even a majority of the proprietors of each of the two villages which are concerned in this suit gave their assent to the agreement; all that is alleged is that probably the lambardárs of these villages, and certainly the majority of the persons in the 133 villages interested in the question, gave their assent. But this is not enough to constitute the document dated the 5th February 1867 a contract binding on the parties to this case. Were it necessary we should rule that it is not within the scope of the general authority of a lambardár to enter into such an agreement on behalf of the other proprietors of the village, and that it would not be binding upon them unless he was specially authorized by them in that behalf. But the point does not arise in this case, as both parties have acknowledged in this Court that in point of fact none of the lambardárs or proprietors of either Samrai or Tahli were parties to the agreement or present at the Naushahra meeting. The validity of the agreement as a contract binding on the parties to this suit rests therefore on the alleged assent to it of the majority of the zamindárs of other villages similarly situated. It is not made out to our satisfaction that a majority of the proprietors of these 133 villages were parties to this agreement, but, assuming this to be the case, it requires no argument to prove that this is not enough to bind the parties to this case.

It is a misnomer to style the proprietors of these 133 villages "members of a large "community," in the sense of their being any community of proprietory rights either between those of one village and those of another, or between them and the parties to this suit. The proprietors of these 133 villages are not joint in estate, nor have the proprietors of the other villages any interest in the proprietory rights of the two villages concerned in this suit, or in the incidents attaching thereto. The assent of the proprietors of the other villages cannot therefore be deemed to be the assent of the proprietors of the two villages concerned in this suit, and the assent of the former to an agreement gravely affecting the proprietory rights of the latter cannot be binding on the latter in any way.

But it may be that the Deputy Commissioner does not consider the agreement to be of the nature of a contract, and that he views it in some other light. The following extracts from his return point at something of this kind. He says :—"This Court decided the case "now under discussion on the principle that *kishtibanna* was a custom; that the immense "majority of the persons interested desired it to be changed for the law of fixed boundaries, "and the minority were bound to abide by the decision of the majority; that this majority "was, and is, overwhelming is proved by the fact that the proprietors of only three villages "have lodged suits to contest the awards of arbitrators or administrative orders made in "accordance with this decision of the majority, and this out of about 133 villages interested. "In short, this Court treated it as a question, not between the members of any special village, "but between the members of a large community occupying villages on both banks of the "river, through some 20 miles of its course; or, in the commentator's words, 'each district "'mutually sacrificing some of its own special usages in order that the whole may enjoy the "'benefit of the same uniform and universal system of laws.'—*(Stephens' Commentaries— "Introduction, Section* III, II.). So much for the law."

But this, in plain words, is simply to put forward a claim on the part of the proprietors of one village to legislate for those of another. Such a proposition requires no refutation from this Court. The legislating proprietors are said to be the majority, but this cannot affect the question as the law has given them no legislative powers. Had there been a community of proprietory rights between all the proprietors, the document would have been a contract and not a law, and the question as to the power of a majority to bind a minority might then have arisen ; as it is, no such question arises in this case.

The confusion in the Deputy Commissioner's mind seems to some extent to be owing to his use of the word "custom" in an incorrect sense. Referring to the rule laid down on the 5th February 1867, he writes "of the present custom as now established" ; but it is clear that the new rule can in no sense be termed a "custom" even from the Deputy Commissioner's point of view. To give validity to a custom it is necessary that it should be continuous as well as ancient, and on the Deputy Commissioner's own showing, a different rule, *kishtibanna,* had prevailed and been acted on continuously for the last 20 years before the time when the new rule was made.

His quotation from Section 3, page 55, of the Introduction to Stephens' Commentaries is perhaps for the same reason singularly inapposite. The detached fragment, which has been separated from its context and extracted by the Deputy Commissioner, forms part of a theory suggested by the learned author to account for the growth of the common law of England by the merger of particular customs. It is put forward merely as a theory, and has nothing to do with the conditions which are required to give validity to a custom ; and besides, it has regard to the origin and rise of the common law in ancient times, and not to the enactment of laws in the present day.

For these reasons the Court is of opinion that the custom of *kishtibanna* has been established, and that it governs this case, and that the so called agreement of the 5th February 1867 does not govern the rights of the parties to this suit, and is not binding upon them in any way.

We regret that the custom of *kishtibanna* has not been lawfully abrogated, as we are fully sensible of its evil effects; but it is the duty of the Court to apply the law as it stands, and not to usurp the functions of the legislature.

As so much misconception on the part of the district authorities seem to exist on this subject, it seems necessary also to explain that we are by no means to be understood to mean that the custom cannot be abrogated without the intervention of the legislature. The matter is a most legitimate subject for contract, but the agreement must be between the parties interested, that is, the proprietors of two co-terminous villages on opposite banks of the river, and the assent of third parties, though similarly situated, is not sufficient.

With these remarks the appeal is decreed, and the Deputy Commissioner's order of the 14th July 1867 is set aside with costs throughout.

(Sd.) C. BOULNOIS. } *Judges.*
D. SIMSON. }

14*th June* 1869.

Nos. 5463-64, dated 9th September 1869.

From—J. A. E. MILLER, Esquire, Secretary to Financial Commissioner Punjab,

To—Lieut.-Colonel H. W. H. COXE, Offg. Commissioner and Superintendent, Jullundur Division, and Lieut -Colonel R. YOUNG, Offg. Commissioner and Superintendent, Amritsar Division.

Sodha and Mada (Plaintiffs), Appellants, *versus* Fatteh Khan and others (Defendants), Respondents. Claim :—617 ghumáos of alluvial land, dated 14th June 1869.

WITH reference to the judgment of the Chief Court in the case marginally noted, I am directed to forward, for communication to the Deputy Commissioner of Hoshiárpur / Gurdáspur, copy of a letter from the Registrar of the Chief Court, No. 1978, dated 19th June 1869, and to state that the Officiating Financial Commissioner entirely concurs in the views of the Judges as therein set forth.

2. The peculiar phase of kishtibanna obtaining on the Beás during its course through the districts of Hoshiárpur and Gurdáspur is undoubtedly very objectionable and unreasonable ; but, being established by custom, it may not be altered except by either an Act of the Legislature, or by contract between the proprietors of the villages facing each other on the river. The judgment of the Chief Court in the case above mentioned having declared to be invalid the agreement entered into between certain proprietors of 133 villages in the two districts on the 5th February 1867, it is manifestly inexpedient to allow any departure from the custom recorded in the village administration papers until legally abrogated in the manner above indicated.

3. Mr. Melvill believes that the state of the river law in the Punjab is very unsatisfactory. In some places the custom of a fixed boundary prevails. This custom it is simply impracticable to enforce, as observed by the Judges.

The whole question was taken up by Mr. Cust, when Officiating Financial Commissioner in 1860, but the information from some parts of the Punjab was incomplete, and the Government were unwilling to adopt the code prepared by him for the whole Province. Mr. Melvill, however, will now bring the subject again forward, in the hope that a code may be legalized for the Punjab ; and meantime I am desired to request that the Deputy Commissioner of Hoshiárpur / Gurdáspur may be instructed to inform those proprietors of the 133 villages who reside in his district, that the custom recorded in the village administration paper at the time of settlement will be observed until further orders, or until it is amended by a legal compact entered into between the parties interested. As, however, it is very probable that the Legislature will interfere, it is not desirable that the District Officers should encourage the proprietors of these villages to modify the old custom.

Extract from Note by L. W. DANE, Esquire, Settlement Officer of Gurdáspur.

* * * * * *

The agreement has been followed in the case of all the villages affected except three—one, Samrai, in which it was set aside by the judicial decision referred to ; one, Bhaini Poswál, which refused to enter into the agreement ; and one, Kángra, which was only affected to a small extent and was overlooked. From 1867 to the present time (1891) the proprietors, as a body, have abided by the fixed boundary, which has been produced and attested in the Hoshiárpur settlement maps of 1881, and the present Gurdáspur maps. The Bhaini Poswál men are now willing, I believe, to accept a similar arrangement.

Only the year before last a boundary case affecting the important village of Aulakh in Batála was carried up to the Chief Court, and the result of the litigation was that the fixed boundary was upheld.

No. 1101, dated 13th September 1869.

From—T. H. THORNTON, Esquire, Secretary to Government, Punjab,

To—J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab.

I AM desired to return the original correspondence on the subject of river law received with your letter No. 730, dated 9th instant, and in reply to state that the Officiating Financial Commissioner can adopt the course suggested in your 3rd paragraph in reference to the information called for by the Supreme Government in Home Department letter No. 471, dated 19th ultimo, a copy of which was forwarded to you with my No. 1032, dated 27th idem.

No. 471, dated 19th August 1869.

From—E. C. BAILEY, Esquire, Secretary to the Government of India,

To—T. H. THORNTON, Esquire, Secretary to Government, Punjab.

To the Chief Commissioner of Oudh, from the Secretary to the Government of India in the Foreign Department, No. 346, dated 30th October 1868.

From the Junior Secretary to the Chief Commissioner of Oudh, No. 261, dated 28th January 1869.

I AM directed to forward a printed copy of the papers noted in the margin, and to request that, with the permission of the Lieutenant-Governor, you will have the goodness to report the extent to which the custom known in Upper India as "dhar dhora" or "hadd sikandri" prevails and is acted on by the Courts in the Punjab and its Dependencies.

2. I am also directed to request an expression of His Honor's opinion whether legislation would be desirable for the abolition of a rule which, to the Government of India, seems hardly consistent with a state of society in which permanent proprietory rights in land are distinctly recognized.

Circular Memo. No. 6541, dated 1st November 1869.

From— J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab,

To—All Commissioners and Deputy Commissioners, Punjab.

(RIVER LAW.)

As information on the question of River Law in the Punjab generally is not so complete as is desirable, the following correspondence is circulated to all officers for report:—

1*st.*—As to the custom prevailing in the different portions of the rivers within their jurisdictions.

2*nd.*—As to the advisability, or otherwise, of adopting Mr. Cust's River Code.

2. Replies to these questions should be submitted with the *least practicable delay*, through Commissioners.

No. 220, dated 28th March 1870.

From—J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab,

To—T. H. THORNTON, Esquire, Secretary to Government, Punjab.

IN reply to your No. 1032, dated 27th August 1869, forwarding correspondence from the Government of India, enquiring how far the custom known as "dhar dhora" or "hadd sikandri" prevails and is acted on by the Courts in the Punjab, and whether legislation is required in the matter, I am directed to state that, in accordance with the permission conveyed in your No. 1101 of 13th September, the principal papers on the subject were printed and the opinions of the local officers called for.

2. The replies and an abstract of them are forwarded herewith together with a memorandum by Mr. Egerton. It will be seen that the Financial Commissioner recommends that the rule of the hadd sikandri or kishtibanna system which transfers proprietory and cultivating rights in lands capable of identification, which have been cut off from an estate by a change in the course of a river, should be abrogated by law, but that in other respects this system as well as the "wár-pár," or fixed boundary system, wherever found to prevail, should be maintained.

Abstract of replies to Circular Memo. No. 6541, *dated* 1*st November* 1869, *regarding River Law.*

Name of Officer.	Custom prevailing in the different parts of the district.	Advisability, or otherwise, of adopting Mr. Cust's River Code.
H. Oliver, Esquire, Deputy Commissioner, Gurgáon.	In the majority of villages the practice is to consider the deep stream of the river as defining the boundary between the estates on either side, and their areas change with the course of the stream.	Considers the Code most suitable, and that it should become law.
Major McMahon, Deputy Commissioner, Delhi.	Two distinct customs prevail. In the Larsauli Parganah the local usage is called "Machasim" or deep-stream rule, by which proprietory rights in the land are regulated. The other custom which mainly prevails in the Ballabgarh Parganah is called "Muaiyyan-ul-hadd," by which the boundaries of villages being determined, fluctuations in the course of the river cause no change in proprietory rights. In the Delhi Parganah one or the other rule is followed.	The proposed rules defining the limits of jurisdiction and revenue seem unexceptionable, if limited in their operation to defining the boundary between portions of British territory.

Abstract of replies to Circular Memo. No. 6541, *dated* 1st *November* 1869, *regarding River Law*—continued.

Name of Officer.	Custom prevailing in the different parts of the district.	Advisability, or otherwise, of adopting Mr. Cust's River Code.
Major Parsons, Deputy Commissioner, Karnál.	The custom as regards river law has not been uniform in the matter of jurisdiction and revenue collection, as on some occasions these have been transferred across the main stream of the Jamna, and sometimes the opposite procedure has obtained.	With a slight modification in Rule VII. recommends the adoption of the Code.
Captain J. S. Tighe, Deputy Commissioner, Umballa.	The custom laid down is that generally prevailing on the Sutlej and Jamna in this district as regards proprietory rights, and is no innovation. As regards jurisdiction it is an innovation, the practice hitherto prevailing having been to allow the jurisdiction to follow the residence of the proprietors or jágirdárs.	Considers the authoritative adoption of rules regarding proprietory rights laid down in Mr. Cust's Code advisable, but as regards jurisdiction would allow it to remain as at present, *i. e.*, to follow the residence or abode of the jágirdár or proprietor.
Lieut.-Col. W. R. Eliott, Deputy Commissioner, Ludhiána.	Until 1866 the custom was to consider land separated off from a village by a change in the course of the river as belonging to the village to which it had become annexed. Since 1869 the deep stream is considered as boundary. If, however, a whole village was thus removed across the stream the rights of the original proprietors remained intact.	Is decidedly in favor of adopting Mr. Cust's River Code.
L. S. Saunders, Esquire, Deduty Commissioner, Jullundur.	The only river in this district is the Sutlej, and the custom known and recognized is generally spoken of as the deep stream, "kishtibanna," by which land when gradually washed away and thrown up on the opposite bank has, if of moderate extent, been allowed to become the property of adjacent estates. And as far as it applies to the jurisdiction between two districts or states, it is the best that can be maintained, and, as remarked by Colonel Lake, "has a tendency to put a stop to bloodshed and affray."	Advocates the adoption of these rules with certain modifications.
H. E. Perkins, Esquire, Deputy Commissioner, Hoshiárpur.	Considers it unnecessary to make any remark, as the Circular under acknowledgment was issued partly on his own action as described in the opening pages.	Mr. Cust's proposed River Law is admirable, and, if adopted, would remove all difficulties.
Colonel H. A. Dwyer, Deputy Commissioner, Sirsa.	The custom in villages on the left bank of the Sutlej near Fázilka is that on a plot of land being thrown up from the bed of the river, the main stream determines to which side it shall belong. It would be an increment to the village opposite to it. In the case of land lost by abrasion on one side of a river, and an increment accruing on the other side, the proprietory rights in the land lost are extinguished, and there is a gain to the town land on the opposite side.	Would prefer the adoption of Section 4 Regulation XI of 1825, which would not allow of interference or alienation with lands capable of identification, and would leave custom to rule in all other cases.
Mr. Blyth, Deputy Commissioner of Montgomery, and Major Short, Deputy Commissioner of Mooltan.	The main stream is considered the boundary of jurisdiction.	Consider the Code applicable.
Major E. Paske, Deputy Commissioner, Kángra.	The prevailing custom is the "kach mach," or the deep stream boundary system, as the bed of the river Beás is clear and defined, and in many parts confined between high cliffs or hills limiting its spread on either side. Disputes seldom occur in this district in regard to jurisdiction, proprietorship or boundaries of river lands.	Advocates the adoption of the Code.
Major W. G. Davies, Deputy Commissioner, Gurdáspur.	On the Rávi the custom of fixed boundaries known in the Punjab by name of "Urár Pár" prevails, and has prevailed *from time immemorial*, while on the Beás there has always been observed an exaggerated form of the "haddi sikandri" law, so that even in cases where land has been transferred from one side of the river to the other by a sudden change in the course of the stream, the land retaining its features unchanged, proprietory, and in *some cases cultivating, possession have been disturbed.*	Does not concur in the advisability of everywhere adopting Mr. Cust's River Code, the rules of which, so far as the decision of proprietory right is concerned, are identical with those of Regulation XI of 1825, omitting Section II.
W. J. Gardiner, Assistant Commissioner, Amritsar.	"Kishtibanna" is the prevailing custom in the majority of villages in this district. Jurisdiction, proprietory rights, and cultivation change with the stream, whether the land has been bodily transferred from one side of the main stream on the other, and whether it is susceptible of identification or not. The people generally would prefer fixed boundaries like those introduced between the Gurdáspur and Hoshiárpur Districts to the kishtibanna "custom," but they would prefer the latter to Mr. Cust's Code (starting from the possessions which they now own), the main stream being close under the high bank on the Amritsar side.	...
Major Millar, Deputy Commissioner, Siálkot.	In villages bordering the river Chenáb the "kishtibanna," or deep stream custom, prevails, *i. e.*, the main stream is considered the boundary of jurisdiction between villages on either side. Land cut away by the river when thrown up is considered as belonging to the village on the side on which it re-appears.	Considers the rules admirable, but is not at present in a position to state whether the people generally would accept them without demur.

Abstract of replies to Circular Memo. No. 6541, dated 1st November 1869, regarding River Law—continued.

Name of Officer.	Custom prevailing in the different parts of the district.	Advisability, or otherwise, of adopting Mr. Cust's River Code.
	The same custom prevails in three villages bordering the Râvi. In the remaining villages the "kach-mach" system prevails, *i. e.*, land belonging to one village and recovered on the opposite side does not change owners. The people retain their own land and cross the river to cultivate, paying the revenue in their own tahsíls.	
Major J. B. Smyly, Deputy Commissioner, Gujrát.	In this district the prevailing custom is that known as "hadd sikandri," with the exception of the lands bordering on that portion of the Jhelum River which runs from Rasúl to Murádwál in Parganah Phália, where the urár-pár system prevails. From time immemorial the deep channel of the river has formed the boundary of jurisdictions, and the people seem to incline to this custom cheerfully.	Considers the adoption of Mr. Cust's Code admirable.
Colonel J. Bristow, Deputy Commissioner, Jhelum.	On the north-east or Kashmír side of district there are two lines of masonry pillars. That on the Mahárája's side is the real boundary; as respect revenue and administration, the chief use of that on the northern or British bank seems to be to furnish points for working out the exact position of any pillar which might be washed away in the "Nasheb of the" Mahárája's side, those on the British side being on a high pakka bank. Does not consider this state of things satisfactory. In other parts of the district the sikandri hadd rule seems to prevail.	With some modifications the rules would act very well in this district.
Captain J. H. Johnstone, Deputy Commissioner, Shahpur.	The prevailing custom on the Chenáb is the "sikandri hadd," *i. e.*, the deep stream is the boundary of jurisdiction, but if the river cuts off a piece of land without destroying its identity it still belongs to its former owners. On the Jhelum the wár-pár law is in force, *i. e.*, the course of the river in no way affects the boundaries of villages.	The Code might be adopted with some modifications.
Lieutenant-Colonel H. P. Babbage, Deputy Commissioner, Gujránwála.	The prevailing custom is hadd sikandri. Property never changes hands with the changes of the river, jurisdiction follows the changes of the main stream, *i. e.*, villages are transferred from one district to another by the variations of the river.	Is not in favor of adopting rules proposed by Mr. Cust, but is rather the reverse.
Colonel B. H. Ferris, Deputy Commissioner, Jhang.	Land washed away by the river whenever replaced is considered the property of the proprietors who suffered, on whichever side of the river such lands may appear.	
Major J. Fendall, Deputy Commissioner, Muzaffargarh	The main stream of the river is considered the boundary of jurisdiction, neither proprietory right nor right of cultivation are affected by changes in the course of the river. The people seem satisfied with the prevailing custom.	Considers some of the rules opposed to the prevailing custom.
Major H. B. Urmston, Deputy Commissioner, Ráwalpindi.	There is no well defined river law in this district, because the two great rivers, the Indus and the Jhelum, which traverse portions of the district, are rock bound on either side and never change their course.	Advocates the introduction of the Code.
Captain W. G. Waterfield, Deputy Commissioner, Peshâwar.	The prevailing custom on the rivers in this district is the "sikandri hadd" or deep stream boundary system.	Considers the rules applicable to the district.
Major Jenkins, Deputy Commissioner, Bannu.	In the Miánwáli Kachi the system of fixed village boundaries exists. In other parts of the district the whole weight of opinion seems to be in favor of making the deep stream the boundary of co-terminous jurisdctions as laid down in Rule I of Mr. Cust's Code.	Recommends adoption of the rules with certain modifications.
Major A. Munro, Deputy Commissioner, Dera Ismail Khan.	The practice set forth under heading No. 3 of Financial Commissioner's Book Circular No. 42 of 1860 is that mainly followed.	These rules with some modifications would answer for all purposes.
Captain R. Sandeman, Deputy Commissioner, Dera Ghâzi Khan.	The law existing in this district is exactly that described in Mr. Cust's Revenue Manual. It has worked well, and villagers on both sides of the river aid each other in identifying their property when by changes of the river it is transferred from one side to the other.	Recommends the advisability of adopting the rules.
Colonel W. McNeile, Commissioner, Delhi Division.	As regards the Jumna the main stream decides the jurisdiction and the revenue, and in cases of general accretion or abrasion it decides the rights of property also; but where the change of the deep stream is sudden and the land transferred from one bank to the other is capable of identification, such rights are not altered.	These rules being in accordance with the custom of the country, should be authoritatively sanctioned.
J. Naesmyth, Esquire, Commissioner, Hissár Division.	......	Considers the adoption of the Code desirable.
Lieutenant-Colonel H. Coxe, Commissioner, Jullundur Division.	The subject has been so fully discussed on previous occasions that it is impossible to offer any new views.	Approves of the Code with certain modifications in Rule V.

Abstract of replies to Circular Memo. No. 6541, dated 1st November 1869, regarding River Law—concluded.

Name of Officer.	Custom prevailing in the different parts of the district.	Advisability, or otherwise, of adopting Mr. Cust's River Code.
Colonel R. Young, Commissioner, Amritsar Division.	Refers to report of district officers	Proposes certain modifications in Mr. Cust's Rules.
Lieut-Col. O. J. Farrington, Commissioner, Ráwalpindi Division.	Refers to district officers' reports for the prevailing custom.	Is of opinion that the Code might with advantage be introduced with some modifications to Rules II & VII.
A. Brandreth, Esquire, Commissioner, Mooltan Division.	Considers Major Fendall's report very satisfactory and concurs in the opinions expressed by him.	......
Major Pollock, Commissioner, Peshâwar Division.	......	Considers the Code applicable to the Peshâwar and Hazára districts.
Lieut.-Col. Graham, Commissioner, Derajât Division.	......	Is in favor of adoption of Mr. Cust's River Code in its entirety.

Memo. by R. E. Egerton, Esquire, Financial Commissioner, Punjab, on River Law.

The Government of India in letter No. 471, dated 19th August 1869, enquires:—

1. To what extent the custom known in Upper India as *dhar dhora* or *hadd sikandri* prevails and is acted upon by the Courts in the Punjab and its Dependencies, and whether legislation is desirable for the abolition of the rule if it exists.

2. In order to ascertain the facts, enquiries have been made in all districts in the Punjab. * * * *

3. The rivers on which the question of existence of the custom arises are:—

1. Jumna.
2. Sutlej.
3. Beás.
4. Rávi.
5. Chenáb.
6. Jhelum.
7. Indus.

4. It will be convenient to describe the custom or law which exists on each of these rivers.

5. On the Jumna in the Delhi Division in the districts of Delhi and Karnál the Commissioner of Delhi states that the main stream decides the jurisdiction and the revenue. In cases of gradual accretion or abrasion it decides the rights of property also, but in cases of sudden changes in the course of the stream, if the land transferred from one bank to another is capable of identification, the rights of property are not altered. * * * *

6. On the Sutlej the custom is similar to that on the Jumna. The deep stream is the boundary, gradual accretions become the property of the estate in front of which they occur, and lands transferred, which can be recognized and identified, are retained by their proprietors, though the jurisdiction is transferred. In their judgment of June 14th, 1869, the Chief Court state that the rule of kishtibanna exists on the Sutlej, and from the context it seems that the same rule exists on the Sutlej as on the Beás, but it is nowhere shown that lands not obliterated, but merely separated by the intervention of a stream from lands with which they were formerly contiguous, are considered lost to their former proprietors.

7. On the Beás the custom of "*dhar dhora*" or "kishtibanna" is carried out to its fullest extent; that is, if lands capable of identification are transferred

from one side of the river to another by a change in the course of the deep stream, the rights of property are transferred to the proprietors of the estate in front of which the land lies. The custom on this river is set forth in the judgment of the Chief Court of the Punjab in the case—

SODHA AND MADA, OF SAMRAI—
PLAINTIFFS—APPELLANTS,
Versus
FATTEH KHAN AND OTHERS, OF TAHLI—
DEFENDANTS—RESPONDENTS,

decided on June 14th, 1869. The reason for the existence of this custom on a small river like the Beás is not easy to find, but the fact of its existence is indisputable.

8. On the Rávi, the custom of fixed boundaries prevails; the proprietors of lands do not lose their rights either in lands cut away and submerged, which appear as accretions in front of some other estate on the other side of the stream, or in lands transferred bodily by a change in the course of the stream. In the separate engagement made under the treaty with Mahárája Guláb Singh of 1846, and alluded to in Article 2, this custom on the Rávi is alluded to.

9. On the Chenáb, the custom is the same as that on the Sutlej.

10. On the Jhelum it is the same.

11. On the Indus, by far the largest river of all, it is said by the Commissioner of the Deraját, and the Deputy Commissioners of Bannu, Dera Ismail Khan, Dera Gházi Khan, and Muzaffargarh, that the custom of fixed boundaries prevails; by which they seem to mean a custom similar to that described above, as existing on the Rávi.

12. There is some doubt whether the system on the Indus is fully understood or described in the replies which have been received. At any rate, there is no reason to believe that the "dhár dhora" custom prevails, and this is further confirmed by the correspondence which occurred in 1860-61, ending with the despatch of the Secretary of State, Political Department, No. 3, dated 16th January 1861.

13. Excluding the Indus, on which the exact custom is uncertain, it is shown therefore that on none of the large rivers in the Punjab, except the Beás, does the system of dhár dhora in its full extent prevail.

Again, excluding the Indus, it may be said that on all the rivers, except the Rávi, a modified form of the dhár dhora custom exists, but the harshest features of the system, *viz.*, the loss of proprietory rights in lands capable of identification by a change in the course of the deep stream, prevails only on the Beás.

14. The customs above described are acted upon by the Courts of the Punjab in deciding disputes which arise. Sometimes the custom is modified by the provisions of the settlement record, and the claims of Government to waste lands which are thrown up in front of estates on either bank of the rivers are asserted, for where the river bed is very wide it is quite possible for new land to be thrown up in front of an estate in excess of the utmost amount of area which the proprietors of the estate claim to own; and in such cases Government may perhaps claim the excess, and may thus be able to provide for the proprietors of the lands on the other side which have been submerged.

15. The modified form of the dhár dhora custom, which prevails on most of the rivers, does not seem to be attended with any such great hardship as to call for legislative interference; but it may be gathered from the Chief Court's decision above quoted that the Judges consider the custom on the Beás has evil effects, which render it desirable that the custom should be abrogated either by mutual agreement of all the proprietors on either side of the river or by legislative enactment.

16. Several officers have proposed that a system of fixed boundaries should be introduced upon all the rivers—that the river bed, in fact, should be portioned out to the villages on the banks, and that the ownership, jurisdiction and revenues should follow the boundaries so laid down.

This system involves a certain amount of scientific measurement annually to carry it out, and it is not practicable, in my opinion, to obtain the skill and supervision required. It involves also the necessity of establishing fixed landmarks to determine the starting points of the measures each year. There would be great difficulty in setting up landmarks of this kind at a reasonable distance from the river, which would be really permanent.

Besides the difficulty of carrying the proposed system into practical effect, there is no doubt that it is opposed to the custom existing in five out of the seven rivers, and it is doubtful whether there are reasons sufficiently urgent to make it desirable to abolish the existing custom and to substitute an artificial system, which, though more just in theory, is not generally understood or desired by the people whose rights it would affect.

17. A set of rules for determining cases of river law were drawn up by Mr. Cust, Officiating Financial Commissioner, in 1860. In these rules it was proposed to carry out the principle of dhár dhora or kishtibanna on all the large rivers of the Punjab, with certain modifications; the principal of these being (so far as the rights of property are concerned) contained in Nos. 4, 5, and 7, which provide for cases in which land capable of identification is transferred bodily from one side of a river to the other by a change in the course of the stream, cases in which the accretion of new land is very extensive, and cases in which islands are formed in the stream, separated from either shore by channels of equal depth. In the two last mentioned cases the rights of Government in the newly-formed lands are asserted.

18. The only point upon which any authoritative interference with the existing law or custom is necessary is in regard to that portion of the dhár dhora or kishtibanna system which transfers rights of ownership in lands capable of identification which have been cut off from an estate by a change in the course of a river. This custom exists notably on the Beás alone of all the Punjab rivers, but, wherever it does exist, the custom is not one which is recommended by any principle of justice; and it is agreed by every officer who has expressed an opinion on the subject that this custom should be done away with.

Modified in this degree, the dhár dhora or kishtibanna custom may be retained where it exists, and so may the system of fixed boundaries where it is found to prevail.

No. 262, dated 8th April 1870.

From—T. H. Thornton, Esquire, Secretary to Government, Punjab,

To—E. C. Bayley, Esquire, Secretary to the Government of India.

With reference to your letter No. 471, dated 19th August last, and subsequent reminders, in which enquiry is made as to the extent to which the custom known as "dhar dhora or hadd sikandri" prevails and is acted on by the Courts in this Province, I am desired to enclose copy of a memorandum on the subject, dated 28th ultimo, by Mr. R. E. Egerton, the Financial Commissioner, and to state that the Hon'ble the Lieutenant-Governor concurs in the views therein expressed, which appear sound.

2. I also enclose a copy of the "Punjab Record" for June 1869, at page 110 (Civil Judgments) of which will be found the judgment of the Chief Court in the case of *Sodha and another* vs. *Fatteh Khán and others*, referred to in the Financial Commissioner's memorandum.

Endorsement No. 263, dated 8th April 1870.

Copy of the foregoing forwarded to J. A. E. Millér, Esquire, Secretary to Financial Commissioner, Punjab, and original accompaniments of his No. 220, dated 28th ultimo, returned.

D.—EXTRACTS FROM SETTLEMENT REPORTS, ASSESSMENT REPORTS, AND GAZETTEERS REGARDING BOUNDARIES OF ESTATES AND DISTRICTS DIVIDED BY RIVERS.

River Jamna.

Settlement Report, Karnál, pargana Indri, and Umballa, tahsíls Pípli and Jagádhri, para. 84.

Boundary between Punjab and North-Western Provinces.

From the point where the Jamna leaves the hills to the border of the Karnál district, the boundary between the Punjab and the North-Western Provinces is the boundary of the villages of the Umballa and Saháranpur districts (Government of India Notification No. 1501, dated 11th September 1884), and Umballa includes lands, and even some whole villages, on the far side of the deep stream. It was found that the boundaries of the estates of the two districts as shown in the maps of the old Settlements did not lock, measurements having usually only been carried up to the bank of the river as it existed at Settlement. With the co-operation of Mr. L. S. Porter, Settlement Officer of Saháranpur, all land omitted from the maps was divided between the Saháranpur and Umballa estates. The boundaries now coincide, and in case of dispute can easily be laid down with the help of the Settlement maps. Under Government of India, Home Department, Notification No. 136, dated 12th January 1884, the deep stream of the Jamna has been declared to be the boundary between Karnál and the districts of Saháranpur, Muzaffarnagar, and Meerut. The District Officers are required to have the boundary verified year by year. By the operation of the deep stream rule several estates have been transferred from Muzaffarnagar to Indri, the proprietory rights in the land remaining unchanged. But in cases of gradual accretion the land would be claimed by our villages.

Settlement Report, Karnal, tahsíl Panipat and pargana Karnál, para. 637.

I may note here that the deep stream is recognised as the boundary between villages on opposite sides of the river all along the part of the Jamna under Settlement. The year before last (1878) a considerable cultivated area was given up without dispute by the Tánda people to our villages under the operation of this rule. The custom is recorded in the administration papers on both sides of the river.

Settlement Report, Delhi, extract from para. 265.

Rule of property on the Delhi riverain.

The boundary for revenue purposes throughout is (Punjab Government Notification No. 4, dated 3rd January 1870) the deep stream of the river, but for proprietory right the custom is various. In Sonepat for all the 24 villages the deep stream determines the property (machha súi); in Delhi only 7 use this rule; in the remaining 17 villages the proprietor keeps his land, whether on this side the stream or not (muaiyyan-ul-hadd). In Ballabgarh more follow the deep stream, and 35 the fixed boundary.

Punjab Government Notification No. 4, dated 3rd January 1870.

Under the provisions of section 4 of the Statute 28 Vic., Cap. 17, the Governor-General in Council is pleased to declare that the deep stream of the Jamna, so far as it flows through the districts of Meerut, Bulandshahr, Delhi, and Gurgáon, shall be the boundary between the two first and the two last of the said districts, and between the Lieutenant-Governorships of the North-Western Provinces and the Punjab.

Settlement Report, Gurgáon, para. 307, clause I.

The general rule determining the boundary between the Gurgáon villages and those in Bulandshahr and Aligarh is that of following the deep stream of the Jamna; but to this rule there are three exceptions—the villages of Gurwári, Bághpur and Bahrámpur, have fixed boundaries with the opposite villages; and at the present time portions of Gurwári and Bághpur are on

the opposite bank of the Jamna, while the two Bulandshahr villages which face Bahrámpur own lands on this side. Up to 1871 these detached portions were treated as in all respects parts of the present estates; but in that year the deep stream of the Jamna was declared in all cases the boundary of the Gurgáon district, and in consequence of this order the various detached portions were formed into separate revenue units.

River Sutlej.

Settlement Report, Hoshiárpur, extract from para. 6.

Customs regarding alluvion and diluvion.

So far as both banks of the Sutlej are in this district, the villages on each side have fixed boundaries, but after that the deep stream is the boundary between the Hoshiárpur and the Umballa districts. On the Beás the boundaries are fixed, except in the case of the villages marginally noted, where the deep stream is the boundary. These exceptional boundaries have been fixed by judicial decision, except in the case of Mauza Kángra, fixed by agreement with Táhli.

1. Tagar Kalán in this district opposite to Bhainí Poswál in Gurdáspur.
2. Tahli in this district opposite to Samrái and Kángra in the Gurdáspur District.*

Settlement Report, Jullundur, extract from para. 7.

Riverain law between villages on opposite sides of the river.

The customs connected with alluvion and diluvion prevailing between villages on opposite sides of the Sutlej were attested by Mr. King, Assistant Commissioner, when attached to this settlement, as regards estates facing the Ludhiána district, and by Rái Bhagwán Dás, Extra Assistant Settlement Officer, for those opposite Ferozepore. The principal point for enquiry is, who gets land lost and gained by river action—the village from which the land has been detached, or that to which it has been joined? Such changes are of two kinds. In one the land is so altered that it cannot be identified; in the other it is simply transferred by a change in the course of the river from one side to the other. In the latter case it is generally admitted that no change in ownership takes place. There are a few exceptions, mostly villages in the middle of Nawashahr, in the middle of Phillour, and where Phillour and Nakodar join. In the former case there is much diversity. In the extreme east, some Nawashahr villages follow the kishti-banna rule (called by the people darya-banna or wanj-banna), by which the deep stream forms the boundary, and land affected by diluvion goes to the village between which and it the deep stream does not run. Then follows a group of villages extending to a little west of Ráhon, which go by the thakbast-banna or burji-banna rule, according to which a village is entitled to retain any land which can be shown to have been included in the Regular Settlement Field map, even if the land has been transferred to the other side of the deep stream. The same rule is followed in a number of villages of Phillour and Nakodar, about the junction of the two tahsíls. Elsewhere, with a couple of exceptions, the kishti-banna rule prevails. Some villages wish to change the custom and adopt that of the thakbast. For myself I think that probably the deep stream rule prevailed originally, as jurisdiction on both sides of the river was usually different. The Regular Settlement fixed the boundaries of villages not exposed to river action; and it is generally where the river has since cut in and attacked such villages that the thakbast rule is now followed. If any doubt arises as to which is the deep stream where there are more branches of the river than one, the question is decided by actual measurement, or, if that is impracticable, by letting a boat float down from a point above where the branches separate, and whichever channel it follows is considered the deep stream. The principal question between adjoining villages is, how the boundary of land gained is to be fixed?

Settlement Report, Ludhiána, paras. 427 to 431.

Method of making the inquiry into the custom of alluvion and diluvion.

THE river Sutlej bounds the three tahsíls of the Ludhiána district on the north, separating a small portion of Samrála from the Garhshankar tahsíl of Hoshiárpur, and the remainder of the others from the Nawáshahr, Phillour, and Nakodar tahsíls of Jullundur. No other river touches the district. The inquiry as to the

* See page 1222.

riverain custom was made by Extra Assistant Settlement Officer, Ahmad Bakhsh from the people of the villages on both sides of the river, assembled for the purpose at several places along its course.

For the inquiry the Ludhiána villages were divided into the groups—

(1). Those of Samrála opposite Garhshankar.
(2). Those of Samrála opposite Nawashahr (Jullundur).
(3). The upper half of the villages of Ludhiána tahsíl.
(4). The lower half of the villages of Ludhiána tahsíl.
(5). The villages of Jagráon tahsíl.

At the attestation of the custom of (2) to (5), Mr. L. W. King, C. S., then on settlement duty in Jullundur, was present and assisted. Group (1) consists of only a few villages.

Nine simple questions on the lines of those in Mr. Tupper's Punjab Customary Law, Volume III, Part II, section 2, were framed and given to the Extra Assistant Settlement Officer, and these with an abstract of the answers to them will now be detailed :—

I.—Custom between villages on opposite sides of the river.

General custom between villages on opposite sides of the river as to land coming by alluvion, separation, &c.

428. *Question* 1. When the land of a village goes by diluvion (abrasion), and land is recovered on the opposite side of the stream, adjoining another village, will such land belong to the original village, or to the village on the opposite side to which it has come by accretion ? Is any distinction made between land that is capable of identification and such as is not ?

Question 2. Where, by a sudden change in the course of the deep stream, land which is susceptible of identification has been transferred from one side of the deep stream to the other, will such land remain the property of the original owners, or will it go to the village community adjacent to whose boundaries it has become situate ?

These two questions are most conveniently taken together. The history of the custom prevailing between villages on opposite sides of the river appears to be as follows. The course of the Sutlej is constantly shifting within the limits of the valley, the present Bet tract, which has a width of five or six miles. Most of the villages were founded at the beginning of the present century; and from 1806 to 1846 the country on both banks, which was only partially cultivated, formed part of the kingdom of Ranjít Singh and his successors. I do not suppose, then, that the deep-stream rule, pure and simple, was ever in force. Disputes were not common because land was so plentiful, and the minor Chiefs who held the country under the Lahore Darbar were probably a law unto themselves, deciding claims not on any fixed principle. Since annexation there have been innumerable disputes, as the changes in the river's course have been very violent, and there are few villages on its banks that have not been one or other party in a case regarding doubtful land. The question may be said to be still to some extent in a state of flux, and it cannot perhaps be affirmed that any general set of customs is as yet absolutely established. The law creative faculty is still in operation, and will eventually, no doubt, with the aid of our Civil Courts, produce recognized rules to suit the fully-developed condition of the Bet tract. I can only show what the present state of the custom is.

The deep-stream rule with modifications.

Even where the deep-stream rule (kishti-banna, dhár kalan, &c.) is retained, two modifications of it are almost everywhere recognized: (1) Land susceptible of identification, *i. e.*, a portion of an estate bodily separated off by change in the course of the stream (rukh girdáni, baghal phir), belongs to the original owners. The great majority of the villages have in their statements accepted this; but there are disputes going on at present, and it is denied by one or two in Ludhiána and Jagráon. I do not suppose, however, that a Court of Law would act contrary to this principle, even if there were much stronger evidence of a custom against it than exists; and I think that it may be considered to have acquired the effect of a

customary law. (2) Where the whole area of an estate has gone by diluvion the proprietors are entitled to land re-appearing on the same site. The site is determined by the map of the Regular Settlement (1850), this being the period which the villages accept at their starting point in all questions of title in land of this character. The above rule has nowhere been denied.

Fixed boundaries.

Between most of the villages of the Samrála tahsíl and those of Garhshankar and Nawáshahr tahsíls facing them, the deep-stream rule has been entirely abrogated, and in its place that of "thakbast-banna" or "hadbast-banna" adopted; that is, the wárpár or léndén rule of other parts, by which the boundaries of each village are of a fixed character and meet, whether the land is covered with water or not. The boundaries accepted are usually those of the Regular Settlement; but in some few cases the people hold out for those of some particular year in which there was a dispute and a decision given, or an agreement come to on the point. The fact is, that, in the first ten miles of its course through the Samrála tahsil, the Sutlej has shifted its course so much that most of the villages now on both sides of it were thirty years ago removed from its banks, and had perfectly defined limits. Where we have now included in our enquiries villages that may hereafter become liable to the action of the river, and asked the proprietors of them by what rule they will abide, the answer has been in every case that they will adhere to their present boundaries. Some few villages in the upper part of the Ludhiána Bet have also agreed with those on the opposite side to abide by fixed limits, but in Jagráon and the greater part of the Ludhiána tahsíl the rule of accretion, that is, of the deep stream, with the two modifications noted above, still prevails and has been acted on.

The rule of fixed boundaries, which appears to have been adopted in the Samrála villages by agreement some twenty-five years ago, is obviously the only just one; and I doubt not that it would be accepted by the whole of the villages on both sides of the river. The difficulty would be as to what should be taken as the starting point; but I have no doubt that most villages would accept the Regular Settlement made about 1850, in which rights were for the first time properly defined.

The deep-stream rule, even with the modifications above, may give results that are really most inequitable, as will be seen from two instances. The land of a village may go by abrasion till only five or six acres are left, fresh land being thrown up within its settlement boundary on the opposite side of the river; but because of this petty area still left, it could not by the rule, if followed strictly, recover land according to its old limits. Again, the land of a large village may go gradually by alluvion to the opposite side of the river, till only a narrow strip is left, and the stream then suddenly changes its course, transferring bodily (rukh girdáni) a large plot which, because recognizable, is given to the people who held it for a few years on the opposite side. Thus the original village is cut off effectually from any chance of recovering land, being denied a frontage on the river. This latter instance is founded on the facts of a case decided by me in the Kasúr tahsíl of the Lahore district some years ago. In the record of our inquiry (Riwáj-'am burd-o-barámad) it will be found that we have shown very fully the exact state of the custom at present, an account of what has happened in almost every village being given, with lists of the villages which now accept each custom. With this and any other information that the parties produce, the Courts will have to decide what rule should be applied in each case as it arises; but I should think that where an agreement by a village to accept a certain rule has now been recorded, effect would be given to this as to a regularly-established custom.

Rights in islands.

429. *Question* 3.—Where, by the separation of the deep stream, an island has been formed from the river bed opposite two or more villages on different sides of the river, to which of such villages will this land belong?

Where the rule is that of the Settlement boundary (thakbast-banna), the area of both villages is first made up to this limit, and whatever is over, lying between them, is divided and assigned to each village in proportion to its

settlement area. Elsewhere the deep stream decides the question, the island belonging to the village which is on the same side of the deep stream. An island is called mand.

Rule for determining the deep stream.

430. *Question* 4. Where there are one or more channels, by what rule is it determined which should be considered the deep stream ?

The deep stream is that which contains the most water, width and depth being considered. Where the width of two streams is about the same, the depth is measured. Where it is quite impossible to decide by ordinary means which stream has the greater volume, a boat is let go at the point of separation, and the deep stream is that down which it floats.

II.—Custom between villages on the same side of the river.

Land reappearing on the site of an old village.

431. *Question* 5. Where the whole land of a village has been destroyed by diluvion, and land re'appears on the same site, but is not susceptible of identification, will the land go to the proprietors of the village on the site of which it has reappeared, or to the village to whose lands it has become attached by accretion ?

The answer to this has been given above. The second modification of the deep stream rule I have noted as accepted everywhere, not merely where the rule is that of the thákbast-banna. The village whose land has been destroyed is entitled to recover the whole of its land according to the Regular Settlement map.

Extract from " Ferozepore Gazetteer " on page 75.

Riparian customs regulating property.

The Moga tahsíl is the only one unaffected by river action. In the remaining tahsíls the deep-stream rule generally determines the boundaries of jurisdictions, but it does not apply to land capable of identification carried away *en masse* to or from the Mamdot jagír or the Kapurthala State. Land thrown up by the stream is assigned to the village contiguous to which it appears, except when the quantity is so large as to be beyond the farming powers of the village. In such case a Government chak is formed. Disputes as to alluvial land between villages on the same side of the deep stream are disposed of in the same way as boundary disputes. In the event of an entire village area being washed away, subsequent accretions in the same place are made over to the proprietory body of the extinguished village. If land of which the revenue is free or assigned be carried away, the assignment is treated as resumed and land incapable of identification subsequently thrown up is made over to the village, and not to the previous assignee. Accretions to revenue-free or assigned land follow the assignment. Land capable of identification carried away bodily to another jurisdiction changes its jurisdiction only, and not its character ; *i. e.*, revenue-paying land continues to pay revenue in the new district, máfis or jagírs retain their original character. Land carried away and restored during the same year returns to the original owners.

Extract from " Lahore Gazetteer " on page 75.

Riparian custom.

As regards villages on opposite banks of the river, on the Sutlej the custom of kishti-banna or the deep-stream rule prevails ; while on the Ravi the custom known as wár-pár prevails. Under the latter rule, owners follow their lands on whichever side of the river it goes, the whole land including the bed of the river having been surveyed into the villages along the banks. As regards contiguous villages on the same bank, such villages take the lands that belonged to them respectively before diluvion, the facts being ascertained from the revenue records. As regards owners in the same village, the custom varies. In some villages it is the custom to make up loss to the individual proprietors from the shamilát deh ; and when in such case the land lost is restored by alluvion it becomes shamilát deh. In other villages what is carried away by diluvion is the loss of the individual proprietor, and what is recovered is his gain.

Extract from para. 2 of Kasúr Assessment Report (1891).

The boundary on the river between the Lahore and Ferozepore districts follows the deep stream.

Extract from Montgomery Settlement Report, pp. 209—210.

Riverain law.

On the lower Rávi, and universally on the Sutlej, the rule of "kishtibanna" is followed. By this rule the deep stream forms the boundary of opposite villages. The deep stream is determined by the course taken by boats when the river has gone down; hence the name of the rule. This rule is also known as the "hadd sikandri" and "kachh-machh" rule; according to it land transferred from one side of the river to the other by avulsion, so that it can be recognized, belongs to the original proprietors, but land thrown up which cannot be identified belongs to the village adjoining which it is thrown up. Under this rule, if a whole village is swept away, the proprietors lose their land for ever, because, even if land is again thrown up where their village was situated, it will belong to the villages adjoining which it is thrown up. Jurisdiction was formerly decided by the deep stream. All land on one side belonged to Baháwalpur, Sirsa, or Mamdot; all on the other to Montgomery. The orders of the Secretary of State contained in despatch No. 3, dated 6th January 1861,* directed that each case should be considered on its merits when villages are transferred by avulsion from one jurisdiction to the other. The changes that occur are considerable. In 1860 four villages were transferred to Baháwalpur, next year five more went. In 1866 six more villages were transferred to the left side of the stream, and in 1870 two more. In that year and the following, however, ten villages were recovered. It will generally be found the simplest plan to keep to the old rule, unless some special case is made out. It is very common on the Sutlej for villages to own land on both banks, and so the change is not as violent as might seem at first sight. The people, too, are accustomed to the rule, and there can be very little advantage in allowing Baháwalpur to get a footing on the Punjab side of the river again. It will be noticed that the statement of the kishtibanna rule prevailing on the lower Rávi and being met with on the upper Rávi is contrary to the account given by Lieutenant Elphinstone in para. 87 of the Gugera Settlement Report; but I see no reason to doubt its correctness. The usual reason given for the difference in custom is difference in jurisdiction; and it is obvious that with different states the "wár-pár" rule would have led to perpetual squabbles in the good old days.

Extract from "Mooltan Gazetteer," page 75.

On the Sutlej, as well as on the two other rivers, two sets of customs were recorded. The position of the villages recording the separate customs was remarkable. On the two ends of the Sutlej in this district, *i. e.*, from Sharaf to the eastern boundary of the district, and from Adamwáhan to the junction of the Sutlej with the Chenáb, the villages on the Mooltan bank and the villages on the opposite or Baháwalpur bank recorded that the deep-stream rule was the basis of their customs, as already described on the Rávi. The villages on both banks in the central part of the river stated that their customs were, word for word, the same as those already given for the rest of the Chenáb, other than those villages observing the deep-stream rule.†

RIVER BEAS.

Extract para. 5 of Assessment Report of Tahsíl Gurdáspur, District Gurdáspur (1890).

The Beás first touches the tahsíl at Fakarpur just at its junction with the Chakki, and, after flowing almost due south for about 22 miles, leaves it at Mulanwal. As in the case of Batála, the former boundary rule of the deep stream on this river was set aside with the consent of the people in 1867, and a fixed line laid down by Dás Mál, Tahsíldár, for the southern half, and by Mádho Lál, Tahsíldár, for the northern half, of the tahsíl. One village, Bháini Poswálan, refused to accept the fixed boundary, and the deep stream accordingly still forms the limit of the district there.‡

Extract paras. 6, 7, and 8 from Assessment Report of Tahsíl Batála, District Gurdáspur, 1889.

The Beás river.

6. The Beás forms the eastern boundary of the tahsíl, and for the first 10 miles of its course separates it from the district of Hoshiárpur, and then for 6 miles forms the boundary between this district and the Kapurthala State. The river flows in a fairly

* Printed in part E.

† For a fuller account of the prevailing customs, see "Customary Law of the Mooltan District," Chapter IV—3.

‡ See also pp. 1222 and 1230.

straight course from north-east to south-west. The general character of its deposits is good, but unfortunately, owing to the general set of most of the Punjab rivers from east to west, and the existence of a well defined dhaia or high bank, which attains an altitude of 50 or 60 feet on the west, close to which the river naturally usually keeps, there is only a very narrow strip of alluvial land on the right bank, while in places, as at the Bhet ferry and near the village of Kángra, the stream actually washes the foot of the dhaia.

Boundary rule on the Beás between Batála and Hoshiárpur.

7. Formerly, the boundary on this river, both between Hoshiárpur and Kapurthala and this tahsíl, was regulated by the deep-stream rule, but in 1867 a fixed line was laid down between Hoshiárpur and Batála under the supervision of Dás Mál, tahsíldár of Dasuya. One village, Samrái, succeeded in getting this line set aside by a judicial decision, and another village, Kángra, was apparently overlooked; so in these two cases the deep stream is still the boundary. The large and turbulent village of Aulakh in the extreme north has also been litigating to have the fixed line set aside, but up to the present without success. Consequently all along the line in most places the Hoshiárpur villages own land on the western bank, so there is no possibility here of any great increase in the Bet area, owing to changes in the course of the stream.

Boundary rule on the Beás between Kapurthala and Batála.

8. Below Kángra the Kapurthala boundary begins. This was laid down in 1880 by Mr. C. M. Rivaz, Superintendent of the State, and Mr. Gardiner, Deputy Commissioner of Gurdáspur, in accordance with the orders of Government circulated with Financial Commissioner's Circular I of 1874. The course followed by the river in 1860, subject to modification by sudden avulsions of identifiable strips of land, was to be taken as the boundary until this should again be altered by gradual changes in the course of the stream, when the actual deep stream would again become the boundary. The course of the stream has practically hardly altered since the line was laid down in 1880, and this has accordingly been again reproduced with the consent of the Superintendent, Major Massy, and the State officials. Here again, however, the tahsíl was unfortunate, as, owing to the sudden avulsion rule, a large tract of very fine cultivated land in the possession of British villages, on which seven villages have since been founded, was adjudged to belong to the State, and the line laid down in most places runs very close under the high bank. Of the seven villages affected, all except two, Kapura and Balharwal, which lost most by the demarcation, are willing to accept the present line as a fixed boundary; and unless the State raises objections, which is improbable, it would be well to formally declare this to be the territorial limit of jurisdiction, at any rate for the assenting villages.

Extract from para. 42 of Tarn Táran Assessment Report (1891).

Under the orders of Government the tahsíl boundary, which here marches with the Kapurthala State, is revised each year.

River Ravi.

Extract from para. 28, Assesment Report of Tahsíl Batála, District Gurdáspur.

The deep-stream rule has apparently never prevailed on the Rávi, and the boundaries of tahsíls and districts follow the village boundaries without regard to the course of the stream.

Note.—For Rávi in Lahore see under Sutlej.

Extract from para. 14 of Montgomery Settlement Report (1874).

*　　*　　*　　*　　*

On the Rávi there can be no question of jurisdiction, as the territory on both sides of the river is British; as regards proprietorship, the rule usually prevailing on the upper Rávi is that known as "wár-pár." The settlement papers show the boundaries of each village. Land thrown up belongs to the village within whose boundaries it is thrown up, no matter whether it can be identified or not. If a whole village is swept away, the proprietors have no claim on other villages. But if afterwards land is thrown up within the space

formerly included within their boundaries, they are entitled to it. Disputed boundaries are to be settled according to the settlement maps. On the lower Rávi, and universally on the Sutlej, the rule of "kishtibanná" is followed.

* * * * *

Extract from "Mooltan Gazetteer," page 74.

On the upper part of the Rávi, *i. e.*, from the point where it enters this district to Sarái Sidhú, the recorded custom is—

(1). That the deep stream of the Rávi is the boundary between villages. (2). If a piece of land is transferred in a recognizable form by a change in the stream from one bank to the other, it belongs to the original estate from which it was separated by river action. (3). If the river form an island recognizable as part of an old village, it belongs to that old village. If the island be formed gradually, it shall belong to that village from which it is separated by the narrowest channel. (4). New land thrown up by the river belongs to the village to which it accrues, and to the individual to whose land it accrues. (5). If any land is formed in the river which is not shown in either the maps of the Revenue Survey or of the Settlement, the deep-stream decides to which village it belongs. (6). The ownership of land thrown up in front of two or more villages is decided by protracting the joint boundary. On the lower Rávi there is no custom between the 24 villages on opposite banks. The boundaries of these villages were fixed at settlement in the bed of the river, and no land can possibly appear which will not be within the boundaries of one village or another.*

River Chenab.

Extract paras. 174 to 176 and para. 178 from Gujrát Settlement Report (1870).

174. Subsequently to this, my successor, Mr. Wace, in his No. 47, dated 20th April 1868, submitted to the Settlement Commissioner the final proceedings, writing as follows:—

"The final proceedings drawn up for the ascertainment of the customary law concerning proprietory rights in the alluvial lands of the Chenáb and Jhelum rivers.

On the Chenáb throughout its course between the boundaries of the Gujrát district on its right (north-west) bank, and the Siálkot and Gujránwála districts on its left (south-east) bank, the "hadd sikandri" prevails. The same custom prevails on the Jhelum down to the point where the Kharián tahsíl ends. At the point the Barhna nala joins the Jhelum, and owing primarily to the autumnal floods brought down by this nala, the Jhelum below the junction of the Barhna becomes so variable in its main stream, and so destructive in its action, that the zamíndárs of the villages on both banks have long since divided the alluvial lands permanently between them, and each village has a fixed boundary which is unaffected by the changes the river may take. This is known as the "war-pár" or "burji (or buti) banná" system.

"The proceedings as regards the Jhelum were drawn up by myself in concert with Zulfikar Ali, Extra Assistant Commissioner of Jhelum, who was deputed by the Deputy Commissioner of Jhelum for the purpose, and those regarding the Chenáb by the Extra Assistant Settlement Commissioner of Gujrát and Gujránwála."

"The proceedings in both cases have been strictly limited to recording usages which have prevailed during the past. It is possible, but I do not think likely, that points of dispute will arise in future which the usages of the past do not meet. But the zamíndárs on the Jhelum appeared to be so far from unanimous in their opinions when new suggestions were discussed, that I felt that any attempt to carry through their introduction would result in discord and end with litigation, the final orders on which would probably restore the simple old usage."

*For further particulars see Customary Law of the Mooltan District, Chapter IV—1.

175. Mr. Wace then goes on to show what a strong feeling there is among the villages condemnatory of the "Sikandri hadd" rule, what terrible inequalities and distress it leads to; and, going into all the arguments *pro* and *con*, he finally asks for legislative enactment empowering an officer not to enforce existing rights as shown by past facts, as by the ordinary action of the Civil Courts; but to introduce a new system, the basis of his awards being not right as previously exercised, but a balancing of contending claims.

176. He also recommends that in future, river belá lands, when taken up by Government, should be appropriated in the same manner as other lands for public purposes. This is no doubt the only legal course, and there is no difficulty about it.

The rules and usages recorded by the people were as follow :—

178. Between the districts of—

Gujrát and Gujránwála.

1. The main stream will be the boundary, the stream in which boats ply in "Maghar" (November).

2. Accretion belongs to the village to whose land it has accrued or become adjacent. If an entire estate is washed away, and is again thrown up in the same place, they will conform to the Government orders. If an estate in rear of the one washed away suffer by diluvion, it is only entitled to receive by accretion up to its former boundary, as shown in the Surveyor's map. It cannot claim more land under Rule II.

3. Any land detached as it stands by the main stream will remain the property of those who cultivated it the year before.

4. An island thrown up between two main streams to be divided equally between the opposite banks.

5. If land as described in Rule IV is afterwards separated by the main stream, it will be governed by Rule III.

6. Any dispute regarding the main stream to be decided as Government thinks best and in the way it chooses

7. A village which has lost so much land by diluvion that it cannot maintain itself, should receive from accretion to the opposite bank sufficient for cultivation, but such cultivation will not give proprietory right.

8. All land thrown up to belong to the village to which it has accrued, without reference to former maps. Government to have no claim for plantations.

9. Wish the 10 per cent. rule to be done away with, and the alluvion and diluvion to be calculated and assessed or remitted yearly.

Between the districts of—

Gujrát and Siálkot.

1. The main streams to be the boundary, that in which the boats ply in November. But between the villages of Kúrí and Shikah the boundaries now existing will remain, as also up the Tawi river between the following villages :—

Rájpur.	Margolah.
Chak Larham.	Bhalihal.
Kotla Parmanand.	Dariya.
Maddan.	Panjpar.
Rangrah.	Chak Bhagwan.
Surakhpur Kúri.	Shikah.

2. Accretion will belong to the village to which it accrues.

3. Land only separated by the main stream will not change ownership.

4. An island thrown up separating two main streams, to be divided.

5. The ownership in such an island will not be again disturbed by the existence of only one main stream the next year.

6. Any dispute regarding the main stream to be decided by the district officers in any way they choose.

7. A landowner who has not sufficient land left for his maintenance may receive for cultivation from that which has accrued to the opposite bank; but he will not acquire the ownership.

8. Will plant trees on the tenth part of any land over 50 acres which may accrue.

River villages on the Chenáb *inter se*—

1. Will be bound by Revenue Surveyor's boundaries laid down; any accretion beyond these to appertain to the village to which it has accrued.

2. Will plant and maintain "shisham" or other large trees on their boundaries in lands liable to river action.

3. Wish the alluvion and diluvion to be calculated yearly, and that the 10 per cent. rule should be done away with.

Extract from "Siálkot Gazetteer," page 50.

Two systems prevail on the Chenáb—(1) Kach-mach or ghich-mich, which allows an estate on one side to claim increment on the opposite bank, even though the main channel may intervene; (2) Daria-banna or Kishti-banna, which refuses such claims and fixes the main channel as the fluctuating boundary. Resort to the former usages will be found more generally where the estates on either bank can trace a common descent, it being their mutual interest to hold lands on either bank without prejudice; to secure them against loss, both estates have to measure their lands to see how much has been cut off on one side and thrown up on the other.

Extract from Gujránwála Settlement Report, page 63 (1868).

The local customs with regard to diluvion and alluvion on the river Chenáb have been recorded at meetings of the headmen of villages on both banks, assembled together at convenient distances in both tahsíl Wazírabad and tahsíl Háfizabad. The whole of them wished the main or navigable channel, on whichever side of the river it may happen to flow or to change, to be considered the boundary (that is, they adopted what is known as the daria-banna system). In only one village, *viz.*, Kádirpur, of the same tribe as the proprietors of the village of Kála on the opposite bank, did proprietors elect to hold land on either bank without prejudice to the rights of either party.

Extract from Shahpur Settlement Report, para. 312 (1866).

On the Chenáb, on the other hand, enquiry showed that in such cases the usage known as the "Sikandri hadd" law has always prevailed.

This rule is precisely that prescribed for observance in sections IV and V of Regulation XI of 1825, *viz.*, that where land is gained by gradual accession it shall be considered an increment to the estate to whose land it is thus annexed, but not when the river, by a sudden change of course, transfers a portion of land from one estate to another, without destroying the identity of the land so removed.

Extract from para. 232 of the Jhang Settlement Report (1881).

With one exception, where a judicial decision had been previously passed, the boundaries of opposite villages in the intermediate river bed have been demarcated at this settlement, and the river measured and mapped.

Most of this demarcation had been completed before I took charge. The main principles on which the boundaries were fixed were these. The boundaries of the adjacent villages were first mapped according to the Revenue Survey

of 1855 and the Regular Settlement field maps. There was generally not very much difference between the boundaries shown in these two surveys. Then on the same map all land that had since accreted and been occupied and held by either village as proprietor was plotted. Land once so held was allotted to the occupying village. If any land still remained on which it was clear that nobody had been in possession, it was generally divided between the two villages, though, if one village had since last Settlement acquired a large slice of the river bed, while the other had lost by diluvion, the major portion of the hitherto unappropriated land might be awarded to the latter. Although this has been done, I do not suppose that when land actually accretes in places where land has never within memory existed, the present demarcation between villages will be accepted without question. Within the village boundary there is one rule for the whole of the district. As far as I know, there are no exceptions. If land held now or formerly in proprietory right decretes or has decreted, and subsequently land accretes on the site of such land, it will be the property of the proprietors whose land formerly occupied that site. As to newly accreted land in regard to which no old proprietory right can be proved, I venture no opinion. Whenever such a case comes up it must be decided on its merits, if there is no provision for it in the wajib-ul-arz.

Extract from "Mooltan Gazetteer," page 75.

Chenáb.—On the Chenáb the custom varies. Between the following villages on the Mooltan and Muzaffargarh banks, respectively, exists the custom of the deep stream, the details of which are given with the six customs above recorded for the upper Rávi :—

Mooltan Bank.	*Muzaffargarh Bank.*
1. Muhammadpur.	1. Binda Sargana.
2. Chiragh Bela.	2. Binda Sargana and Chiragh Bela.
3. Bela Shah Din.	3. Chabutra Adha.
4. Thul Najib.	4. Alipur.
5. Nek Machhi.	5. San Malot.
6. Salarwahan.	6. San Malot and Ranawahan.
7. Akbarpur.	7. Pakka Sandila.

It is remarkable that these villages are all on the upper Chenáb, immediately after its junction with the lower Rávi, on which a different custom prevails. On the rest of the Chenáb the following are the customs :—(1) Land removed by river action from one bank to another, whether recognisable or not, or whether removed by avulsion or by gradual action, belongs to the original village from which it was taken. (2). New land formed in the bed of the river belongs to that village in whose Revenue Survey or Settlement map the land is. (3). When asked how the ownership of land not recorded in any map would be decided, the Lambardárs replied :—" We know our own boundaries in the river bed, and will be bound by them. If there be such a village the boundaries of which are not laid down, Munsiffs shall decide the ownership." (4) New land formed in front of two or more villages shall be awarded to each village as laid down in the map. If in excess of what is recorded in the maps, arbitrators shall decide.*

Extract from " Muzaffargarh Gazetteer," page 73.

Riparian custom.

On the Chenáb the general rule as to riparian boundaries is that the owners follow their lands as they emerge from one or other side of the river. If the land has never been heretofore included in any Goverument measurement, the ownership is a question to be decided by arbitration. This is the rule in 109 out of 116 riparian villages. The exceptions are Chiragh Bela, Binda Sargana, Chabutra Adha, Alipur, San Malot, Ranawahan, Pakka Sandila. In them the deep-stream rule prevails. If there be two streams, of which it is doubtful which is the greater, the former owners remain in possession of the island formed until the doubt is disposed of. As regards the rights of the State of Baháwalpur, the deep-stream rule prevails ; and in case of avulsion, the Government to whose jurisdiction a village or a portion of a village was formerly subject con-

* For further particulars, see Customary Law of the Mooltan District, Chapter IV—2.

tinues in possession. The general rule applicable to the Chenáb applies to all the villages on the Indus, save Bet Isanwala, to which the deep-stream rule is applicable. The jurisdictions of different districts both on the Chenáb and Indus are governed by the deep-stream rule. The Indus rules are fully given in the Gazetteer of the Dera Gházi Khán district.

River Jhelum.

Extract from Gujrát Settlement Report, para. 177 (1870).

THE rules and usages recorded by the people were as follow:—

Between the landowners of the Khárián tahsíl and those on the opposite bank of the Jhelum river in the

Jhelum District.

1. THE main stream is the boundary, that used by the boats in October when the river is at its lowest.

2. Accretion belongs to the village to whose lands it has accrued.

3. Land separated by the main stream of the river, not washed away, will belong to the village to whose lands it may be adjacent.

4. Land thrown up between two main streams should be divided between the opposite banks.

5. If land accruing under Rule 2 is again separated by the main stream, the ownership does not change.

6. Any doubt about the main stream to be settled, first, by the rival claimants; secondly, by arbitration; thirdly, by the courts.

7. No owner of land washed away can claim any right to accretion on account of the straitness of his circumstances.

8. The main stream being the boundary, land thrown up appertains to the village to which it is adjacent, unless appropriated by Government for tree-planting.

9. Regarding alluvion and diluvion they will be bound by the Government rules, that it should only be taken into consideration when amounting to 10 per cent. of the area or Government demand.

Between the Phálián tahsíl and the Jhelum district—

1. No main stream boundary; the limits of estates will always remain the same; to be decided by the maps.

9. Regarding alluvion and diluvion, they will be bound by the Government rules, whatever they may be.

NOTE.—See also under Chenáb.

Extract from Jhelum Settlement Report, para. 215 (1881).

The custom governing the disposal of lands newly formed by river action is not uniform. Where the river Jhelum first enters this district it runs in a rocky bed and with a swift current. New lands are hardly ever formed. And though the deep-stream rule, or hadd Sikandri, is said to be in force, yet I question very much whether any single instance can be produced in which it has been necessary to apply it. From near Dulial, where the river begins to run more tranquilly, a line of masonry pillars forms the boundary between British and Jammu territory. Everything on this side of the line is measured in some village or Government bela, and thus the system of "wár-pár" or fixed boundaries may be said to be in force. At bela Thuliála in the Gujrát district, opposite to Langarpur in tahsíl Jhelum, the line of boundary pillars comes to an end. Hence down the river to the lower boundary of Changas in the Gujrát district, the deep-stream rule of Sikandri hadd is the only custom. This lower boundary of Changas is very nearly identical with the upper boundary of

Darapur in this district. Thus for all practical purposes the bed of the Bunha torrent may be taken as marking the extreme limit of the Sikandri hadd custom. All the villages below this point are under the rule of "wár-pár" or fixed boundaries. Unfortunately, the maps prepared in Jhelum, Gujrát, and Shahpur do not always coincide. Thus there is some room left for dispute. It would be a great point gained to have a proper boundary survey made of the whole river bed where the "wár-pár" rule is in force. I doubt very much whether the villages concerned would ever agree *unanimously* to set aside the Sikandri hadd custom. It would, however, be much better abolished. There can, I think, be no doubt that the strict custom requires the cession of all lands which change their bank, whether they be identifiable or not. But about these identifiable lands there is usually a bitter quarrel. The general working of the custom, too, is apt to be wasteful and inequitable.

Extract from para. 312 of the Shahpur Settlement Report (1866).

The necessity for some recognized principle on which to decide claims to large tracts of alluvial land early forced itself on my notice, owing to a custom prevailing on the Jhelum river having been ignored in a dispute of this kind, decided a short time before my arrival in the district. The case was much talked of, and was the immediate cause of my making a reference, which resulted in my obtaining permission both to revise the erroneous decision referred to, and to add, after due enquiry, a clause to this section in the administration papers, defining the usages for the decision of such claims on both rivers.* The custom, which from time immemorial has been in force on the Jhelum, is that locally known by the name of "wár-pár-banna." The words literally mean a boundary on either side, but the phrase is commonly accepted to mean that the river is not considered as a boundary at all; that the original area of the estate is *alone* looked to; and, whether in the bed of the river or out of it, the lands comprised within those limits remain for ever a part of the estate. The rule probably had its origin in the fickle nature of the stream, and was devised by the original settlers on both banks for their mutual protection. However this may be, there is no doubt of the existence of the custom. This was clearly established by enquiry of the zamíndárs of villages on both banks of the river, and is further attested by the fact that a large proportion of estates so situated *have land on both banks*. Nothing can be theoretically fairer than the rule, and no great difficulty is experienced in its practical application, now that a regular survey and settlement of the estates on both banks have been made.

* See this office No. 17 of July 1863, Commissioner's No. 2085 of 4th August, and Financial Commissioner's No. 3080 of 11th August of the same year.

Jhang.—See under Chenáb.

River Indus.

Extract from Peshâwar Settlement Report, paras. 609, 610, 610½ and 614 (1876).

609. The boundaries between villages on opposite sides of the river in the thakbasts prepared at Major James' Settlement were the river banks; in some villages the river was included within one village. Later on an order of Major James, to the effect that lands gained by gradual accession from the recess of a river were to be considered an increment to the village to which they adjoin, guided the decision of claims.

610. The subject of river customs divides itself into two heads :—

(I).—The customs as between villages on opposite sides of the river (wár-par).

(II).—The customs as between adjoining villages on the same side of the river (baghli).

Under the first head came the following questions :—

1. What is the boundary line? If mid-stream, in what month is the main channel ascertained, when the river is at its highest or lowest?

2. In the event of a village losing its land by gradual accession to another village, how is the loss and gain of land regulated? If the encroachment of the river affects a village heretofore not adjoining the river, what is to be considered the boundary of that village?

3. If the river by a sudden change of its course breaks through and intersects a village area, what is the custom as to the ownership of the land so separated?

4. If there are two channels in the river equal in depth, and between them a bela (island) is formed, to whom does it belong?

5. If considered the property of both villages, for how long? For instance, if in the following year there should be no doubt about the main stream, will the land thus thrown up be liable to re-adjustment of ownership on the main stream principle?

6. If the main channel of the river dividing villages is the boundary, but there are two or three main channels equally deep, how is this regulated? Which is to be considered the channel the deep water stream of which is the boundary?

610½. The first question elicited the following replies:—

The river bed is the joint property of both villages; the boundaries are defined in the shajrás to the river banks. In the event of disputes, the deep stream, ascertainable in January or February, when the river is at its lowest, is the boundary line.

* * * * * *

614. The Indus boundary line was not finally settled.

There is no dispute from Jahángíra to Haryán, and the main channel is the boundary agreed to by both parties.

The boundary line between the villages of Hind, Gar, Munara Zardhi on the Yusafzai side, with Sirka, Painda, Jabru, Harun, Abubakr, Adabzai, Tatari, Salim Khan, Ashgar, Yasin, Shinga, Mominpur, and Jalala on the Káwalpindi side, is disputed. The enquiries were conducted by Hakim Rai, late Superintendent of Yusafzai, and the Tahsíldar of Attock. Proposals on their joint enquiries have been made by me; I am unable to say what has been finally settled.

The boundary line of the following villages, Patagra, Pontiya, Galla, Pihur, Bara, and Kayára, adjoining the Hazára district, was not disputed; it includes the whole of the river, with the Utmanzai villages on the Yusafzai side, and was the boundary shown by them.

Extract from Bannu Settlement Report, para. 179 (1878).

Another important work, commenced immediately after attestation and not completed until a month ago, was the making of arrangements for the partition of Miánwáli Kacha, now under water. I have in a former chapter explained how between 1856 and 1868 an enormous area of Miánwáli Kacha was destroyed by fluvial action. The right to new alluvion, as it formed, was always contested in court. The rule throughout the whole Kacha for both villages and individual holdings was and is, once a boundary always a boundary. Thus, wherever land appeared numerous claimants started up, asserting that it had formed on the site of an old possession of theirs. There being no field maps, judgments were both very arbitrary and haphazard. In 1870 and 1871, when I was in charge of the sub-division of Miánwáli, I felt my helplessness in such cases. I found the best plan was to prohibit cultivation on a new plot until it had been divided on some equitable principle amongst those who seemed best entitled to share in it. In the 1873-74 measurements of this Settlement individual rights in 92,388 acres belonging to thirty-six villages could not be shown in the field maps, the land being under water. I explained to the communities concerned the necessity of making some arrangements for the partition of such plots on their reappearance, in order to check future litigation and ensure justice. All the villages agreed, and, treating the submerged areas as if held in joint ownership,

proceeded under the supervision of the Superintendent to effect their partition. The result is that the whole area has been mapped and divided in such a way that each shareholder will receive his allotted portion as it reappears without having first to litigate for it. In the case of four villages the basis of division has been former field maps. But for the other thirty-two those interested have mostly divided their submerged lands into blocks or strips according to their proportionate shares, the area to be alloted to individuals in each being recorded and no more. That area is generally for an occupancy tenant, inferior or full proprietor the maximum acreage entered in any one year in his name either at the first or the second Summary Settlement, or in any of the subsequent annual measurements under the fluctuating system of assessment. The balance, if any, has been recorded in one or more plots in the names of the founders (bunyád-dárs), or as *shamilát-deh*, as the case may be. To safeguard the rights of absentees and others, a clause has been inserted in each administration paper to the effect that the partition proceedings do not estop a civil suit, and that decrees are to be made good from the *shamilat-deh* or founder's portion. The files together with the Superintendent's attestation orders have been placed in the record-room, and the results themselves have been incorporated in the Settlement records. The reason why it was better to arrange matters now was, that the Settlement officer could do so best, and that agreement as to positions of blocks, strips, and fields was only now possible when every man's chance was equal.

Extracts paras. 379 to 387 from Dera Ismail Khan Settlement Report (1879).

379. The system on which boundaries in the river tracts of this and the adjoining districts should be laid down has been the subject of a good deal of correspondence, first, as relates to boundaries between villages, and, secondly, as relates to boundaries between adjoining tahsíls and districts. The Dera Ismail Khan district borders on the Indus for a distance of 130 miles; for 85 miles it includes both banks of the river, but for 20 miles to the north it is fronted on one side by the Miánwáli tahsíl, and for 25 miles to the south by the Sanghar tahsíl.

380. The two opposite systems on which river boundaries are generally decided are the *deep-stream* rule and the *wár-pár* or *fixed boundary* rule. Under the first, the main stream in the boundary between estates and jurisdictions, all new accretion being gain and all diluvion being loss to the side on which it occurs. Under the second the vagaries of the river are disregarded, the whole river bed is plotted out, and lands belonging to an estate belong to it always, in whatever position they may be thrown up.

381. The correspondence on the subject originated in the complaints of the Sanghar zamíndárs as to the inconvenience occasioned by the transfer under the deep-stream rule of a large number of villages and parts of villages to the Leiah tahsíl. Reports were called for by the Settlement Commissioner from the Settlement Officers of the Bannu, Dera Ismail Khan, and Dera Ghází Khan districts, from which it appeared that in deciding boundary cases between villages, the *wár-pár* system was undoubtedly the one supported by local usage.*

In the Dera Ismail Khan district there had been a great number of disputes between villages in the river bed, most of which had, in accordance with the local custom, been decided on the *wár-pár* system. About 1862, however, Munshi Gopal Dás, Extra Assistant Commissioner, introduced the deep-stream rule, an arrangement which was approved of by the Commissioner, Colonel Becher. A few cases were accordingly decided in accordance with this principle, which was adopted by the courts, though the *wár-pár* rule was the principle of decision to which all parties always appealed, as the idea of right in their minds, and existence of the *wár-pár* custom, in spite of these adverse decisions, was clearly proved by the existing state of proprietory right; there being numerous cases in which zamíndárs had followed lands transferred by river action from one bank to the other, and in which they now owned the lands on both banks. In this district the *wár-pár* custom was commonly adhered to, not only in cases of

* From para. 86 of Mr. Brandreth's Settlement Report of the Jhelum district, I find that the *wár-pár* custom is also in force between that district and Shahpur. Mr. Brandreth advocated the mapping of the whole river bed, which has been done here.

avulsion, where the old lands could still be identified, but also in cases of gradual formation of new lands, years after the old lands had been lost by diluvion. The deep-stream rule is suitable enough to most European rivers, but when applied to a stream with so broad a bed as the Indus, and the course of which is liable to such great and constant alterations, it can only work with great harshness. In the case of the smaller villages it frequently occurs that the whole lands of a village disappear for a time, and under such circumstances, by the deep-stream rule, the rights of the proprietors would be lost altogether, as the lands, when again formed, would be the property of the villages to which they might happen to accrete. On smaller rivers a village on one high bank disputes the whole bed with a village on the other; but on the Indus there are ordinarily many villages in the breadth of the river, and most villages have at one time or another been high and dry with no river frontage at all. The idea of a fixed boundary with the next village dates from that time, so that the proprietors of these river villages have all got a clear and definite idea of the shape of their estate and of the whereabouts of its old boundary in the river bed, and consider such boundary the sole measure of right.

382. The *wár-pár* custom having been clearly proved to exist, the Financial Commissioner* requested the sanction of the Government to its adoption as the rule for Indus villages. His Honor the Lieutenant-Governor, however, considered that any Government action in the matter was unnecessary. The custom was said to have been proved; custom was the law by which all disputes relative to the lands in question must be decided; and for the Local Government to give sanction to the observance of what was already the existing law, and which must be followed by the Court, would have been altogether superfluous.†

383. In accordance with the ascertained custom, the whole river bed has in the course of this Settlement been mapped out and divided into village estates. In addition to the Settlement Survey the whole tract from bank to bank was surveyed by the Revenue Survey Department during the seasons of 1873-74 and 1874-75. There are, therefore, accurate maps in accordance with which the boundaries now fixed can hereafter be relaid.

384. In accordance with the wishes of Captain Barron, Deputy Superintendent of Revenue Survey, masonry pillars, made on the plan of the Irrigation Department bench marks, were erected at intervals of about a mile along both banks of the Indus. To be beyond the reach of floods these landmarks were put upon one side along the edge of the Thal, and on the other in the Daman, some little distance in from the main bank of the Indus. It was considered that these would be found useful in afterwards relaying boundaries. I have no doubt that they will be found useful, should it afterwards be necessary to have these boundaries relaid with great accuracy by the Revenue Survey Department. They will hardly be used, however, by the patwárís, who will generally relay boundaries from neighbouring wells or other permanent landmarks, from which measurements can be more easily made than from the remote survey pillars.

385. As regards the boundary between adjoining jurisdictions, the custom in these districts had been conflicting. As a rule, between adjoining tahsíls of this district, villages included in a tahsíl at the Summary Settlement remained attached to it in spite of change of position. This rule had not, however, been acted on strictly. In the case of the boundary between the villages of the Khasor range and the Miánwáli tahsíl, the *wár-pár* rule had obtained between the districts, except in the case of the small village of Sirdáriwála, which had disappeared on one side and been absorbed on the other. In the case of the boundary between Sanghár and Leiah also the *wár-pár* rule was more or less acted on till 1869. The boundary of the district in this direction, as surveyed in 1856, by no means followed the course of the main stream, some considerable tracts on the left bank being attached to the Sanghar tahsíl, while in one or two cases lands across the river were attached to the Leiah tahsíl. The Sanghár lands on the left bank were gradually increased by new alluvion,

* No. 961 of 23rd October 1872, from Secretary to Financial Commissioner, to Secretary to Government, Punjab.

† No. 1596 of 3rd December 1872, from Secretary to Government, Punjab, to Financial Commissioner.

till they formed a continuous tract of some ten miles in length, comprising the better part of seven or eight villages. In 1869, at the instance of Major Sandeman, Deputy Commissioner of Dera Ghàzi Khan, this tract was transferred to the Leiah tahsíl. The Sanghar zamíndárs protested a good deal against the arrangement, though without much ground, as the zamíndárs most affected had previouly owned villages included in the Leiah tahsíl, and their properties were not, therefore, being divided between the two tahsíls for the first time. The fact of a larger portion being now included in Leiah made no practical difference in their circumstances. This was the existing state of things when the settlement of this district commenced. Mr. Lyall took up the question of district boundaries, along with the kindred subject of village rights in the river bed, and expressed a modified opinion in favour of a fixed boundary. He writes:—"With regard to this question, my opinion is that wherever the *wár-pár* custom prevails, and boundaries can be defined, the deep stream should in future not be taken absolutely as the boundary between districts and parganás. From time to time, with reference to alterations in the position of the main stream of a presumably lasting character, whole mauzás should be transferred from one district or pargana to another. But mauzás should never be split up. Complaints are rife in Dera Gházi Khan, Muzaffargarh, and part of Dera Ismail Khan of the inconvenience suffered by landholders having to attend the courts of two districts or two tahsíls owing to the deep-stream jurisdiction boundary rule. Moreover, the frequent transfer of villages from one district to another, and more particularly the splitting up of villages, make the maintenance of comparative statistics and of registration of lands very difficult"

386. The question of boundaries between jurisdictions was afterwards, by the direction of the Punjab Government, separately submitted through Colonel Munro, the Commissioner of the division, whose proposals were thus stated by the Financial Commissioner* :—

"The Commissioner of the division follows the modified proposal of the Settlement Officer, Dera Gházi Khan, that all alluvial lands belonging to mauzás of which the village site or the greater part are situated on one side of the river shall be considered to belong to the tahsíl on that side.

"The Commissioner also recommends that the actual boundary shall be fixed annually by the tahsíldárs in concert. The maps and boundary marks will be taken as guides where the river has left them standing, and where the marks have been washed away the ground will be re-surveyed and the boundary renewed."

387. This arrangement was sanctioned by the Punjab Government†, as was the boundary which, in accordance with these principles, had been already laid down between the Sanghar and Leiah tahsíls by Mr Fryer and myself. By this boundary the tract transferred in 1869, and consisting of eight whole villages and one part village, continued to form a portion of the Leiah tahsíl. A multitude of small mauzás lying between these and the Sanghar main bank were left as before in the Sanghar tahsíl. No villages have since been transferred, as such transfers in the middle of a settlement would have caused great confusion. In the case of the boundary with Miánwáli, each district has retained the villages found attached to it when settlement operations commenced. Nothing had to be done here beyond determining the boundaries of these villages on the *wár-pár* system. This work was done partly by myself and partly by Mr. Thorburn. By an arrangement with Mr. Fryer, the Settlement Officer of Dera Gházi Khan, the boundaries of the adjoining villages of the Sanghar and Leiah tahsíls were settled by me. Copies of the maps showing the boundary line, as eventually laid down on the Revenue Survey sheets, have been filed in both this and the Dera Gházi Khan district offices, so that any future boundary disputes will be easily adjusted. I am inclined to think that it will be found advisable to retain permanently the boundaries between this and the adjoining districts, as laid down at this settlement. In addition to the confusion that is caused by transferring

* No. 643 of 4th June 1874, from Secretary to Financial Commissioner, to Secretary to Government, Punjab.

† Secretary to Government's No. 940 of 9th April 1875, to Secretary to Financial Commissioner.

the records of a village from one district to another, and the objections that there are to breaking up patwárís' circles, it must be remembered that the revenue system in force in the river villages of these three districts varies considerably. In Dera Gházi Khan, lands culturable at settlement are revenue-free for term of settlement. In Bannu and Dera Ismaíl Khan such lands are assessed, while the revenue on fallow lands is remitted. Again, in the Dera tahsíl there is one uniform rate for cultivated lands, and no rate on grazing lands. In Miánwáli there are three sets of rates for cultivated lands, and a rate on grazing lands. If their settlement arrangements are adhered to, Sanghar and Miánwáli villagés will not fit into the statements showing changes of demand in the villages of this district. They will have, therefore, to be separately reported, unless the Muzaffargarh plan is followed of setting aside the old settlement, and re-settling the village in accordance with the system in force in the tahsíl to which it may have been transferred. The village is in this way assimilated to its new neighbours, but the Sanghar zamíndárs think it very hard that the transfer of a village by avulsion to the Muzaffargarh side should lead to an enhancement of rates and to the assessment of their *nauabad* lands. Villages ought not therefore to be transferred from one district to another, except when the alteration in position is likely to be of a lasting character, as otherwise the objections more than balance the advantages. I may state that the case suggested by me is not imaginary. Last year, some Sanghar zamíndárs with whom I am acquainted explained to me fully the system of assimilisation that their villages had undergone when transferred by avulsion to Muzaffargarh.

DERA GHAZI KHAN SETTLEMENT REPORT.—APPENDIX B.

Riverain law as existing between the Dera Ghází Khan district and the Dera Ismaíl Khan and Muzaffargarh districts, as elicited at a meeting of the zamíndárs of these districts held at Dera Ghází Khan on the 22nd of April 1872.

I.—The deep stream is not the arbiter between the zamíndárs on either bank of the river as regards proprietory rights in land. Each mauza is defined, and land belongs to the mauza in whose original boundaries it was included, whichever side of the deep stream it may be on. The deep stream is only an administrative boundary.

II.—All lands, whether river bed or not, have known proprietors, and the lands, wherever they may be, are divided, when fit for cultivation, according to known shares.

III.—In future the wish of the people of Dera Ghází Khan is that the 10-per cent. rule be not followed. They wish to follow the third system proposed in the Financial Commissioner's Book Circular No. 42 of 1860, and to receive remissions for decrements, and to be assessed on increments on the actual area affected by the river in every year. The assessment of the district is distributed on wells, and the 10 per cent. rule bears hardly on individuals, as by that rule remissions of revenue are calculated on village and not on well areas.

IV.—All lands accruing to a mauza will belong to their original proprietors; *e. g.*, if a well, A, loses land which accrues to well B, it may be claimed by its original proprietor, even though it may not be capable of identification.

V.—Where lands have once been divided, the division holds good if lands so divided are carried away and brought up again.

The Mazarís wished not to account for alluvion or to receive remissions for diluvion, but His Honor the Lieutenant-Governor refused to exempt them from the operation of the ordinary rules. The adoption of the rule that remissions should be given for all decrements and all increments assessed was sanctioned.

Wishes of the people regarding the river boundary.

The zamíndárs located on the banks of the Indus in this district were most anxious that the river should not be considered the boundary line between the Dera Ghází Khan and Dera Ismaíl Khan and Muzaffargarh districts. Owing to the peculiar riverain law prevailing on the river Indus, it often happens that part of the lands of a village are on one side and part on the other side of that river. The consequence is that the owners of lands on the river banks are subject to two different sets of courts and of officials, which they much dislike.

Recommendations of Settlement Officer.

I recommended that the rule which makes the deep stream the boundary between districts should be cancelled in so far as it applied to the Dera Ghází Khan district and to the districts facing it on the other bank of the river. The Settlement Commissioner supported this proposal, with the reservation that if whole villages should be transferred from one bank of the river to another, a transfer of jurisdiction should follow; but that if part of a village remained in the district to which it originally belonged, the jurisdiction over the whole village should remain with that district.

Orders of Lieutenant-Governor.

The Lieutenant-Governor declined to alter the rule that the deep stream should be the boundary between districts. At the same time, however, he remarked that the question was an administrative and not a settlement one, and that it might be referred through the Commissioner of the division. This has been done by the Settlement Officer, Dera Ismaíl Khan.

In remaining districts of the Deraját careful survey of the river made by the Revenue Survey.

The Settlement Commissioner had also recommended that in the Dera Ismaíl Khan and Bannu districts the boundaries of river villages, whether under or above water, should be carefully mapped by the Revenue Survey Department. This proposal was approved, but does not affect this district in which the Revenue Survey was already nearly finished. The Revenue Survey has therefore mapped the river boundary only north of Dera Din Panah in the Sangarh tahsíl.

GENERAL.

Rules D II 26, 27, 28, 32 *and* 33 *under Act XXXIII of* 1871, *reproduced as executive instructions in Revenue Circular* 33, *paras.* 10, 11, 12 *and* 22 *and* 23.

New estates formed by the river.

10. When lands are thrown up that, by law or custom having the force of law, do not belong to any particular estate, they may be constituted into a new estate and settled, application being made to the Financial Commissioner for permission to bring such estates upon the District Revenue Roll, or they may be reckoned as Government waste lands.

Removal of estates from Málgúzári Register in consequence of diluvion.

11. When an estate is entirely cut away by the river, it should be removed from the District Revenue Roll, but it should be restored on a subsequent formation of land on the same site, if the original owners are entitled to recover possession.

Formation of excess waste into separate estate.

12. When, in the opinion of the Collector, the increment not brought under cultivation exceeds the requirement of the owners of the estate for pasturage or other useful purposes, he should report the case to the Commissioner, in order that the sanction of the Financial Commissioner may be obtained to his proceeding under Section 60 of the Land Revenue Act.

Assignments of land-revenue how affected by alluvion and diluvion.

22. When the land-revenue of the estate has been assigned, the assignee will benefit from any increase of revenue and will suffer from any loss. If he pay commutation for service in a fixed proportion upon his revenue, the commutation will fluctuate with the amount of the revenue.

Effect of removal of the land assigned by diluvion.

23. An estate, or plot, of which the revenue was assigned, once swept away has ceased to exist, and the assignee has no claim to the revenue of alluvial deposits afterwards formed upon the same site, unless when the original owners would be entitled to recover possession of the newly-formed land, on the ground of their previous ownership.

E.—RIVER BOUNDARY BETWEEN BRITISH TERRITORY AND NATIVE STATES.

No. 1.—*Rulings of Supreme Government on river boundaries of British territory and Native States.*

Copy of a letter No. 2551, dated 12th June 1857, from G. F. Edmonstone, Esquire, Secretary to the Government of India, to Sir J. Lawrence, K.C.B., Chief Commissioner, Punjab.

I have the honor to acknowledge the receipt of your Officiating Secretary's letter, dated the 1st ultimo, No. 395, regarding the transfer of eight villages from the Ferozepore District to the Kapúrthala State, owing to a change in the course of the river Sutlej.

2. In reply, I am directed to inform you that the Governor-General in Council sanctions the transfer of the eight villages in question.

His Lordship in Council, however, is not disposed to agree to your proposal that the main stream of a river shall, as a fixed rule, form the boundary between the British possessions and those of the Ahluwália Rája and of other Chiefs exercising independent jurisdiction, deeming it preferable that in each case of this nature, whether independent Chiefs or Jágírdárs are concerned, a separate reference should be submitted for the orders of the Government of India.

Copy of a letter No. 3631, dated 24th August 1860, from the Deputy Secretary to the Government of India, to the Secretary to Government, Punjab.

I have received and laid before the Governor-General in Council your letter, dated 27th ultimo, No. 533, together with its enclosure, submitting for decision the general question of river boundaries between British and Independent territory.

2. You observe that the subject has been already before Government and refer to a correspondence connected with a sudden change in the bed of the Sutlej in 1857, whereby eight villages were cut off from the Ferozepore District. On that occasion Sir John Lawrence recommended that these villages should be transferred to the Rája of Kapúrthala, on whose side of the river they were left by the change of the channel and that the general rule should be laid down that the main stream of a river shall form the boundary between the British dominions and those of the Ahluwália Rája, and of other Chiefs exercising independent jurisdiction.

3. In reply, the Governor-General in Council sanctioned the transfer of the villages in question, but was not disposed to agree to the proposal that the main stream of a river shall, as a rule, form the boundary. The Governor-General in Council deemed it preferable in each case of this nature, whether independent Chiefs or Jágírdárs are concerned, that a separate reference should be submitted for the orders of Government.

4. You further refer to a change in the bed of the Indus in 1859, whereby an island was transferred suddenly from the Sindh to the Baháwalpur side of the river. In reply to a reference from the Commissioner of Sindh on the subject, Sir John Lawrence informed the Commissioner that no fixed rule for the decision of such cases existed in the Punjab, but that each case was considered on its own merits, and Sir John Lawrence recommended that, as the land in question had been transferred in its integrity to the Nawab's side of the main stream and was distinctly recognisable, the Nawab's claim should not be admitted.

5. The immediate occasion of the present reference is a change in the course of the main stream of the Indus, whereby Kachi Chauhán, an island in the Indus, belonging to the proprietors of Míranpur in the Mithankot Pargana, which used to be on the left of the main stream, lies on the right, and is claimed by the Nawáb of Baháwalpur.

6. The Deputy Commissioner of Leiah maintains that the present case is precisely similar in all essential points to that of Kachi Kusmore, with reference to which, the claim of the Nawáb of Baháwalpur was rejected in 1859, the only difference being that this land had formerly, under the old rule which recognised the main stream as the boundary, been transferred to the Baháwalpur territory in 1851 and retransferred in 1853, since which period it has remained British territory. The Commissioner of Leiah strongly recommends that the case of the Kusmore Kachi be considered in the present instance and for the future a precedent that each case be decided upon its merits; and that the main stream of the river be considered the boundary only in the case of fresh lands being thrown up, which cannot be identified and owned.

7, The Officiating Financial Commissioner does not agree with the Commissioner of Leiah. He considers that Major Taylor is mixing up two separate and distinct questions, *viz.*, the interests of the proprietors and the prerogatives of the two Governments. "Now as betwixt sovereigns," he says, "there is no doubt that the only safe rule of practice is that the main river should be the boundary, irrespective of all other considerations.

The proprietor may be able to recognize his lands or he may not: that is a subordinate matter and turns upon much intricate enquiry; but the positive fact of the main stream down which the steamers and heavy vessels go, is a matter simple to determine, and very important as regards Police and the other duties of sovereignty." This principle he considers to be equitable and practicable, and he would deplore any deviation from it.

8. The Lieutenant-Governor concurs in opinion with the Officiating Financial Commissioner. He does not think that the circumstance of the land being cut away bodily, and in a state capable of identification, should have the operation of the simple rule by which the main channel is constituted the territorial boundary. This rule is plain, decisive, and thoroughly understood by the natives; the Lieutenant-Governor, therefore, solicits the orders of Government on the general question, or should there be any objection to declare one unvarying rule, he desires to know if the Governor-General in Council coincides with his views in the particular case, adding that, if the Governor-General in Council concurs with him, it may perhaps be necessary to review the decision given by the Commissioner in Sindh on Sir John Lawrence's advice in regard to Kachi Kusmore.

9. The Governor-General in Council directs me to observe that the Officiating Financial Commissioner is not correct in assuming that as betwixt sovereigns, the only safe rule of practice is, that the main river should be the boundary irrespective of all other considerations. The rule is such only in cases of alluvion and not in those of avulsion, and the present case is of the latter kind. When a boundary river suddenly quits its bed and cuts for itself a new channel, it ceases to be the boundary, and the Government which ruled over the territory cut off by the change in the river continues to rule it.

10. The above principle has been laid down in the case of the rivers which are in some places to form the new boundary between Nipal and Oudh. It has been ruled that these rivers shall continue to be the boundary, if their encroachments on either side are only gradual and in the ordinary course of alluvion and diluvion, but not in the case of sudden changes in the bed of the deep stream, whereby land capable of identification is cut away.

11. His Excellency in Council directs that the case of Kachi Chauhan may be decided on this principle, with which the decision given in the case of Kachi Kushmore is consistent.

12. The question of the proprietory right in the land, I am to add, is a totally different one, and remains unaffected by the decision on the general question. In either case the present proprietors of Kachi Chauhan would continue to possess the island, but under the Lieutenant-Governor's proposal they would become subjects of the Nawáb of Baháwalpur, whereas, under the principle now laid down, they will still continue subjects of the British Government.

Copy of a letter No. 1038, dated 8th March 1861, from C. U. Aitchison, Esquire, Under-Secretary to Government of India, to R. H. Davies, Esquire, Secretary to Government, Punjab.

Your letter No. 533, dated 27th July 1860. Reply of Government, dated 24th August 1860.

With reference to previous correspondence noted in the margin, regarding the question of river boundaries between British and Independent territory, I am directed by His Excellency the Viceroy and Governor General in Council to transmit for the information of the Lieutenant-Governor the accompanying extract (paras. 22 and 23 from a Despatch of the Secretary of State for India, No. 3, dated 16th January 1861).

Extract from a Despatch from the Right Honorable the Secretary of State for India in the Political Department, No. 3, dated 16th January 1861.

Para. 22. I approve of your Excellency's decision with regard to the boundary question caused by a change in the course of the Indus, and of the rules you have laid down respecting river boundaries generally between British and Independent territory.

23. You very properly make a distinction between cases of alluvion and those of avulsion. In the former cases the main stream should be the boundary irrespective of other circumstances, whereas on the occasion of sudden violent changes in the course of a river the boundary question in each case should be decided on its own merit.

No. 2.—*River Boundary of Montgomery and Baháwalpur.*

Copy of a letter No. 1008, dated Lahore, 12th December 1871, from E. O'Brien, Esquire, Secretary to Financial Commissioner Punjab, to the Officiating Secretary to Government, Punjab.

In reply to your letter No. 568, dated 15th September 1871, I am directed to forward copy of a letter from the Commissioner of Mooltan with copy of its enclosure from the Deputy Commissioner of Montgomery, regarding the transfer of villages from the Montgomery District to Baháwalpur owing to changes in the course of the deep stream of the Sutlej.

2. In reply to the questions contained in your letter under reply, I am desired to state that Mr. Egerton considers the transfer of the villages, if it is allowed to take place, should be unconditional and absolute. The people who live in the villages on the banks of the Sutlej have always been accustomed to expect such changes, and it is not the same hardship to them to transfer them to the rule of a Native State that it would be to transfer villages which have never lived under such uncertain allegiance.

3. The Settlement is now under revision, and the new assessment of these villages has not been announced; and, considering the uncertainty which attend cultivation in all river-side villages, there would be no advantage in stipulating that any assessment should be fixed for the villages proposed to be transferred.

4. The Deputy Commissioner reports that there are no special beneficiary rights regarding which any conditions should be made.

5. The Financial Commissioner considers that it is an undoubted convenience to make the deep stream the boundary between British territory and Baháwalpur. At the present time the Baháwalpur State is governed by the British Agent, and the administration is probably not more oppressive than our own is. It would be exceedingly inconvenient for police and judicial purposes to have any boundary other than that of the deep stream of the Sutlej between the two territories, and the Financial Commissioner considers it is desirable that this boundary should be maintained and transfers made in accordance with it.

Copy of a letter No. 369, dated 14th November 1871, from Colonel S. F. Graham, Commissioner and Superintendent, Mooltan Division, to the Officiating Secretary to Financial Commissioner, Punjab.

In reply to No. 5799, dated 14th September last, begs to forward copy of letter No 497-57, dated 17th October last, from Deputy Commissioner, Montgomery, furnishing data on the points noted therein on the subject of transfer of certain villages to Baháwalpur and *vice-versâ*.

Copy of a letter No. 497-57, dated 17th October 1871, from T. W. H. Tolbort, Esquire, Officiating Deputy Commissioner, Montgomery, to the Commissioner and Superintendent, Mooltan Division.

Subject—Deep stream boundary. Reference—Commissioner's No. 274-259, dated 19th September 1871, forwarding No. 568, dated 1st September 1871.

In reply to the above, I have the honor to report that the deep stream boundary has always been observed between this district and Baháwalpur. There is not, I believe, any Treaty stipulation to this effect. The principle laid down in the Secretary of State's letter No. 3, dated 16th January 1861, probably applies, *viz.*, that in sudden and violent changes by avulsion rather than alluvion the boundary question in each case must be decided on its own merits. I do not know whether Government will consider this a case of avulsion rather than alluvion; but, even admitting that it is avulsion, there are great and manifest advantages in following the deep stream rule, and no special reasons that I am aware of why it should be deviated from. The rains this year have made great changes in the course of the Sutlej, and though the two villages under report still remain on the Baháwalpur side, other villages,—no less than 12 in number—have been transferred to this district; so that the rule gives a compensating gain.

2. In reply to His Honor's second question—the Settlement in these villages had expired, and they had been re-assessed by the Settlement Officer, but the villages were removed some months before the announcement of the new jamas.

* * * * * * *

3. By the transfer from British to Foreign territory the villages lose all the advantages of British rule; but this cannot be helped. Intimation will be sent to the Political Agent of the Settlement Officer's proposed assessments, but there can be no certainty that those assessments will be accepted by him, indeed the productive capacity of a river village is never the same two years following. I am not aware of any special beneficiary rights (other than these) that will be injured by the transfer.

4. All things considered, I am of opinion that the convenience attending the transfer will outweigh the injury received.

* * * * *

Copy of a letter No. 229, dated 16th February 1872, from C. M. RIVAZ, Esquire, Officiating Under-Secretary to Government, Punjab, to the Officiating Secretary to Financial Commissioner, Punjab.

WITH reference to your letter No. 1008, dated the 12th December last, and the previous correspondence which has taken place regarding certain interchanges of lands between Baháwalpur and the Montgomery District consequent on changes in the course of the deep stream of the Sutlej, I am directed to state that His Honor the Lieutenant-Governor is not prepared to sanction the transfers proposed by the Financial Commissioner.

2. The Lieutenant-Governor considers that the British subjects occupying the lands proposed to be transferred to Baháwalpur would be greatly injured if such a measure were carried out, nor does it seem to His Honor that the inconvenience of maintaining British jurisdiction across the deep stream will be serious.

No. 419, dated 24th April 1872.

From—W. M. YOUNG, Esq., Offg. Secretary to Financial Commissioner, Punjab,

To—The Offg. Secretary to Government, Punjab.

I AM directed to forward copy of a letter No. 3, dated 15th April 1872, from Officiating Settlement Commissioner, Punjab, with enclosure, regarding the jurisdiction of villages which have been transferred by avulsion from the Baháwalpur to the British bank of the Sutlej.

2. The Financial Commissioner supposes that in this case, representing the converse of that in respect of which the orders of Government in your No. 229, dated 16th February, were issued, the principle will be the same, and that the villages will be held to belong to the Baháwalpur State, and that the orders issued to the Settlement Officer by the Settlement Commissioner are correct.

No. 3, dated 15th April 1872.

From—J. B. LYALL, Esq., Offg. Settlement Commissioner, Punjab,

To—The Offg. Secretary to Financial Commissioner, Punjab.

WITH reference to his No. 1487, dated 2nd March last, regarding the Sutlej River boundaries, has the honor to forward, for such orders as Financial Commissioner may consider necessary, copy of a letter No. 75, of 25th March, from Settlement Officer, Montgomery, and of this office reply, No. 17, of this date.

No. 75, dated 25th March 1872.

From—W. E. PURSER, Esq., Settlement Officer, Montgomery,

To—The Officiating Settlement Commissioner, Punjab.

IN reply to your No. 510, dated 9th instant, received on the 24th idem, I have the honor to state that the riverain law of the Sutlej hitherto prevailing was as follows:—

(1). The deep stream formed the boundary of different States.

(2). Land transferred from one side to the other of the deep stream by action of the river belonged—

(*a*). If transferred bodily (*i. e.*, by avulsion), to the original proprietors;

(*b*). If washed away (*i. e.*, by diluvion), and thrown up on the other side, to the owners of the villages adjoining which it was thrown up.

2. Foreign States, such as Mamdot and Baháwalpur, appear to have often disregarded this law by claiming all the land for the State; but this was simply on the principle of might being right.

3. I consider the old custom ought to continue in force. As, however, it appears from the correspondence attached to your letter under reply that villages transferred bodily are to belong to the State to which they belonged before the transfer, I have the honor to request the favor of orders how to deal with the Baháwalpur villages that came across this year, and on the measurements of which we have been engaged for months.

4. If these villages are to be considered as belonging to Baháwalpur, the sooner the measurements are stopped the better.

No. 648, dated Lahore, 7th May 1872.

From—C. M. RIVAZ, Esq., Offg. Under-Secretary to Government, Punjab,

To—The Offg. Secretary to Financial Commissioner, Punjab.

IN reply to your No. 419, dated the 24th ultimo, I am directed to state that the Financial Commissioner is right in his view, that Baháwalpur jurisdiction will remain over the villages in question which have been transferred by avulsion from the left to the right bank of the Sutlej.

Extract para. 21 of Land Revenue Report of Montgomery District for 1889-90.

The long-pending and bitter disputes which arose between the proprietors of lands on the Baháwalpur side of the Sutlej and the British side have all, with one exception, been adjusted in a satisfactory manner, in a conference between Jindwade Khan, the Baháwalpur Mashirul Mal, and Munshi Aziz-ud-din, Extra Assistant Commissioner. These disputes will, however, always arise as long as the present dialluvion rule is in force on the Sutlej, by which territorial jurisdiction and proprietory rights depend upon the course of the main steam of the river. The amount of suffering, loss, bad feeling, and criminal cases to which they give rise is very great. This evil is likely to continue until a fixed boundary line is made between the two jurisdictions.

No. 3.—*River Boundary between Dera Gházi Khan and Baháwalpur.*

No. 488, dated 22nd May 1872.

From—W. M. Young, Esq., Officiating Secretary to Financial Commissioner, Punjab,

To—The Offg. Secretary to Government, Punjab.

I am directed to submit, in original, the dockets marginally noted, from the Settlement Commissioner, relative to a report furnished by the Settlement Officer of Dera Gházi Khan of the arrangements made for settling disputed claims to alluvial lands on the Indus between zamíndárs of the Rájanpur tahsíl and zamíndárs of the Baháwalpur State.

No. 11-D., dated 20th April 1872, with enclosure.
No. 32, dated 8th May 1872, with enclosure.

2. The Financial Commissioner considers that the decisions in these cases, which have been agreed to by the Political Agent, Baháwalpur, should be sanctioned by Government. They have been made with much care, and are as fair as the nature of these cases admits.

3. The report is forwarded for the sanction of Government, as the matter relates to the boundary of a Native State.

No. 11-D., dated Camp Gházi Khan, 20th April 1872.

From—J. B. Lyall, Esq., Offg. Settlement Commissioner, Punjab,

To—The Offg. Secretary to Financial Commissioner, Punjab.

I have the honor to forward copy of a report by Mr. Fryer, Settlement Officer, Dera Gházi Khán, of a settlement of boundary disputes on claims to alluvial lands between the zamíndárs of the Rájanpur tahsíl of his district and the zamíndárs of the Baháwalpur State.

2. The awards made have been accepted by the parties, and I only forward the report for information, and because I think that it might be satisfactory to the Settlement Officer to obtain an intimation of the Financial Commissioner's general approbation of the awards, seeing that the principles on which they were made, though in my opinion of a very equitable nature, are not directly supported, as far as I know, by any Government order or regulation.

3. I also take this opportunity of taking the Financial Commissioner's opinion with regard to the system to be followed in adjusting boundaries of villages in the bed of the Indus in the Bannu and Dera Ismail Khan districts.

4. The wár pár custom appears to prevail in these two districts and between Dera Gházi Khan and Muzaffargarh. A boundary line is supposed to exist, and any land, whether true alluvion or transferred by avulsion, is held to belong to the village within whose boundary it can be identified to be. Of course, in the absence of maps and surveys, and even of regular demarcation of boundaries, such identification is often difficult; and then the village on the same side of the deep stream has the best chance of getting what it covets; but this does not alter the principle.

5. I think that, wherever this custom prevails, a river map should be made, and boundaries adjusted in the way suggested in paras. 8, 9 and 10 of this office letter No. 544, dated 23rd September 1867, to your address. When village boundaries in the river bed have been permanently fixed in this way, I think that it should be a rule that the deep stream should no longer be taken absolutely as the boundary between different districts or parganas. From time to time, with reference to the position of the deep stream, whole mauzahs should be transferred by formal order from one pargana or district to another, but mauzahs should never be split up. Complaints are rife in Dera Gházi Khan and part of Dera Ismail Khan as to the inconvenience suffered by landholders in having to attend the courts of two districts or two tahsíls owing to the deep-stream district boundary rule. Moreover, the frequent transfers of villages from one district or tahsíl to another, and more particularly the splitting up of villages, make the maintenance of comparative statistics and of registration of lands very difficult. It may be remarked that the Government has lately abolished the deep-stream boundary between Montgomery and Baháwalpur, though, for administrative purposes, a natural boundary of the kind is more required between British and Foreign territory than between two British districts.

No. 74, dated 4th March 1872.
From—F. W. Fryer, Esq., Settlement Officer, Dera Gházi Khan,
To—The Commissioner and Superintendent, Deraját Division.

I have the honor to report that, in compliance with your No. 439 of the 8th of November 1871, to the address of the Deputy Commissioner, Dera Gházi Khan, I made arrangements to meet Captain Grey, Political Agent and Superintendent, Baháwalpur, with a view to settling the disputes between the people of the Rajanpur Subdivision of this district and the people of Baháwalpur regarding alluvial land on the Indus.

* * * * * *

3. There were approximately sixty miles of river frontage in dispute, and the Kachís, the lands of which were claimed partly by the Indian Government, as representing the Dera Gházi Khan district, and partly by the Baháwalpur State, are eight in number:—

I.—Kachi Ghambír.
II.—Ditto Machi.
III.—Ditto Sabzani.
IV.—Ditto Mohri.
V.—Ditto Miánwáli.
VI.—Ditto Paru Sháh.
VII.—Ditto Shahwáli.
VIII.—Ditto Jaffirwáli and Bhot.

4. The points in dispute were—

(1.)—What lands had been transferred from either State in their integrity by a change of the deep channel of the river Indus, and what lands had been transferred by alluvion?

(2.)—What were the lands originally transferred from one of the two States by sudden changes in the deep stream of the river, and what lands had subsequently accrued to lands so transferred by alluvion?

(3.)—It having been ascertained what lands had been transferred intact by changes in the deep stream of the river from either State, to whom should alluvial accretions to such lands be deemed to pertain?

5. I append a tracing furnished me by the Deputy Superintendent of Revenue Survey, North-West Frontier, which when fitted to the map of the Dera Ghází Khán District, compiled by Colonel Johnstone in 1858, will show the course of the river Indus in 1858 and its course in 1870, when the Revenue Survey of the lands in dispute was made following the boundaries adopted in the Settlement thakbast maps.

6. From this tracing it will be seen that the river is now flowing further west than it did in 1858, and that it has gained its present position rather by changing its channel than by gradual cuttings from the lands of Rájanpur. Between Baháwalpur and Rájanpur there are a number of river channels, and in one year the river flows through one channel and in another through another. Thus in 1870 the river flowed in a channel from Serhin to Bhoong, whilst this year it flows in a channel from Rewári to Shahwáli.

7. The orders governing the question of the boundary between the British and Baháwalpur territories are contained in the Supreme Government's letter No. 3631 of the 24th of August 1860, *and the rule laid down in that letter is that "in cases of alluvion, and not in those of avulsion, the main river shall be the boundary, irrespective of all other considerations."

8. Captain Grey, in para. 2 of his No. 565, dated the 3rd of November 1871, to your address, explains the difficulty that has occurred in carrying out this rule. "An island having been left in middle of the river by a change of the stream, it no doubt remains part of the territory to which it originally belonged, but to whom do accretions to such an island belong?"

9. On our side it was argued that the ordinary rules of alluvion and diluvion would govern such cases, and that land gained from the river by gradual accretions would follow the status of the village or island to which it is adjacent. (*Cust's Revenue Manual, paras.* 127 *and* 128). On the Baháwalpur side it was contended that the Supreme Government rule applied in cases of avulsion only, and that in all other cases the main river was the boundary between estates.

10. As it was hopeless to expect that any authoritative ruling on this point could be obtained in time to enable us to dispose of these long-standing disputes during the present marching season, Captain Grey and I agreed to adopt a compromise, of which the following are the principles:—

(1).—The original "chakar," or island, should in all cases be identified as far as possible.

(2).—Alluvion to such "chakar" on its west, or Rájanpur side, should be deemed accretions to the "chakar," and on the east, or Baháwalpur side, as accretions to Baháwalpur. The deep stream being now to the west of the "chakars," all accretions to them are, it should be noted, on the Baháwalpur side of the deep stream.

* See page 1249.

(3).—Lines should be drawn north and south of each "chakar" from fixed points, and no accretions on either of these sides should be allowed to be gained by any "chakar." The object of this rule was to prevent the elongation of "chakars," the final result of which elongation might, as Captain Grey pointed out, eventually be to shut off the Baháwalpur State entirely from its river frontage.*

11. On these principles we proceeded to decide each dispute on the spot. It was, however, agreed that no question should be raised as to any accretions to a "chakar" dating previous to 1866, when the Baháwalpur political agency was established, and also that, following the spirit of the Supreme Government order of 1860, a "chakar" should be considered to consist of all lands lying between the two beds of the river at the time the river changed its bed; it being, however, necessary that such lands should be capable of identification either wholly or partly. It often happens that in a "chakar" there may be only one or two large trees or other landmarks capable of identification, the lands of a "chakar" being bet or alluvial; but it would be absurd to argue that the lands on which such landmarks stood should be the only ones considered to form identifiable "chakar," and that other lands attaching to such landmarks, though not themselves identified, should be considered alluvial.

12. On these principles we have disposed of all the cases in dispute,—Názim Núr Muhammad Khan and Lalji Pershád of Baháwalpur, and Assistant Settlement Officer Chiman Lál and Deputy Superintendent Shekh Suba of Dera Ghází Khan being sent first to identify the "chakars," and Captain Grey, Mr. Bruce, and I forming our own conclusions on the spot subsequently.

13. In each case the boundaries of the "chakars" have been fixed and the boundary points drawn from villages on the high banks of the two territories, so as to prevent subsequent disputes. In one case, which was somewhat complicated, owing to previous decisions of Colonel Becher, Commissioner and Superintendent, and Captain Wace, Assistant Commissioner, dated 1865, an exchange of lands was arranged with the consent of Imám Bakhsh Khan, Mazári, the principal land owner interested.

14. The boundaries of every "chakar" will, we have settled, remain as they have been now fixed and as they will be mapped, unless they should be altered by the action of the main river. Except in the Paru Shah Kachi, the present boundaries will hold good, and no cuttings of minor channels will be allowed to affect them. The boundary of the Paru Shah Kachi has been fixed towards Baháwalpur by a navigable dhand, and this dhand will be the boundary on that side wherever it flows.

15. In deciding these disputes, the local knowledge of Assistant Settlement Officer Chiman Lál and Názim Núr Muhammad Khan have been of much service. Both these officers were at one time Tahsíldárs of Rájanpur, and they had seen most of these Kachís at one time or another.

No. 1345, dated 24th October 1872.

From—C. M. Rivaz, Esq., Offg. Under-Secretary to Government, Punjab,

To—The Secretary to Financial Commissioner, Punjab.

I am directed to return the enclosures to your No. 488, dated the 22nd May last, and to state that the Lieutenant-Governor approves the arrangements made by the Settlement Officer, Dera Ghází Khan, in concert with the Political Agent and Superintendent, Baháwalpur, for the settlement of disputed claims to alluvial lands on the Indus between the Zamíndárs of the Rájanpur tahsíl of the Dera Ghází Khan district and those of the Baháwalpur State.

No. 4.—*Ruling that orders contained in Government of India No.* 3631, *dated* 24*th August* 1860, *apply to all boundary cases arising between the Punjab Government and a Native State.*

No. 1220, dated 17th November 1873.

From—J. A. E. Miller, Esq., Secretary to Financial Commissioner, Punjab,

To—The Secretary to Government, Punjab.

No. 469, dated 23rd May 1873, from Political Agent, Baháwalpur, with enclosures.
No. 121, dated 6th ultimo, from Settlement Commissioner, with enclosures.
No. 740, dated 13th idem, from Commissioner, Mooltán, with enclosure.

With reference to his No. 220, dated 15th February last, submits in original, for the orders of Government, the correspondence noted in the margin, regarding certain transfers of villages from the Montgomery district to Baháwalpur and *vice versâ*, with copy of a memo. recorded thereon by the Financial Commissioner.

* See also Appendix A to Dera Ghází Khan Settlement Report.

2. A report in regard to the transfers between British and Mamdot territory will be submitted separately.

Memo. by the Honorable R. E. EGERTON, Financial Commissioner, Punjab, on the subject of villages transferred from the Montgomery District to Baháwalpur and *vice versâ*.

THE Commissioner of Mooltan, in his letter No. 136, dated 22nd July 1871, forwarded correspondence which had passed between himself and the Deputy Commissioner of Montgomery, and the Political Agent, Baháwalpur, regarding certain transfers of villages from the Montgomery district to the Baháwalpur State and *vice versâ*, and proposed the transfers for sanction, stating that the Deputy Commissioner and Political Agent concurred in recommending them. It appears in fact that the Deputy Commissioner and the Political Agent had arranged the transfers without referring to the Commissioner, and the Deputy Commissioner had altered his kistbandi accordingly, but submitted a special report in compliance with orders received from the Commissioner.

2. The sanction of Government was sought in No. 632, dated 14th August 1871. Some further particulars were called for by Government, and on receipt of these the case was again reported for sanction with No. 1008, dated 12th December 1871. Sanction was refused by Government in letter No. 229, dated 16th February 1872; it was ruled that, as the case was one of avulsion, the deep stream of the river did not determine the boundary and the jurisdiction.

3. Another reference was made in letter No. 419, dated 24th April 1872, to Government on the report of the Settlement Commissioner in the case of some villages which had been separated from the Baháwalpur side of the Sutlej by avulsion; and Government, in No. 648, dated 7th May 1872, agreed that Baháwalpur jurisdiction should be maintained in the villages transferred to the Montgomery side. When these orders were communicated to the Commissioner of Mooltan, he sent a further report, No. 640, dated 1st July 1872, showing that of the ten villages forming the subject of the Government order last quoted, six had been British villages transferred to Baháwalpur by avulsion on a former occasion under the deep-stream rule, and now re-transferred in the same way by avulsion.

4. The Government then, in No. 220, dated 15th February 1873, ordered a statement of the lands which had been transferred by avulsion to and from British territory and Baháwalpur, and to and from British territory and Mamdot, from the date on which the orders of the Secretary of State of January 1861 had been promulgated. Replies have been received from the Political Agent, Baháwalpur, the Commissioner of Mooltan, and the Settlement Commissioner, which are herewith submitted. It is shown from these reports and from other enquiries that the orders of the Secretary of State of January 1861 have never been promulgated by Government. They have never been communicated officially to the Financial Commissioner.

5. The Financial Commissioner did not circulate the orders of the Government of India received with Punjab Government letter No. 1282, dated 21st November 1860, evidently considering that they applied only to the particular case referred, which was one from the Dera Gházi Khan district. The orders of the Government of India were not generally made known until the publication of Financial Commissioner's Circular memo. No. 6541, dated 1st November 1869, which called for opinions on river law and circulated previous correspondence. This letter appeared then, with many others, without any instructions showing that the rule laid down in it was generally applicable. The period which was prescribed in No. 220 as that from which the changes should be shown has no existence.

6. The reports, however, clearly show that one rule has been observed in dealing with transfers by avulsion which have occurred between Montgomery and Baháwalpur, and that is the rule of the deep stream as determining territorial boundaries without distinction between loss and gain by avulsion and by gradual abrasion or accretion. The report of the Political Agent, Baháwalpur, shows that this rule is also observed in adjusting the boundary between that State and the Mooltan and Muzaffargarh districts, though the Commissioner of Mooltan notices the subject only so far as the Montgomery district is concerned.

7. It appears from the correspondence printed with Financial Commissioner's Circular Memo. No. 6541, dated 1st November 1869, page 51, that the deep stream of the Sutlej was fixed as the territorial boundary between the Baháwalpur State and the districts of the Mooltan division in the correspondence ending with Commissioner, Mooltan's letter No. 158, dated 5th April 1852, to the Secretary to Board of Administration, Punjab; and it appears that the rule then laid down has been observed ever since without comment.

8. The Commissioner of Mooltan, in his letter No. 136, dated 22nd July 1871, did not state the existing practice in deciding these questions; and though it is stated clearly enough in letter No. 1008, and enclosures, yet the fact that cases of avulsion as well as of gradual accretion had been so treated did not receive sufficient prominence.

9. The reports of the Political Agent, Baháwalpur, and of the Commissioner of Mooltan, and its enclosures, show how extensive the changes of boundary in cases of avulsion have been. Considering the length of time during which the deep stream has been accepted as the boundary between Baháwalpur and British territory on the Sutlej and the Chenáb or Panjnad, with the consent of the Baháwalpur State, I think that rule should be maintained on the Sutlej and Panjnad.

10. On the Indus the rule regarding avulsion laid down in Government, Punjab No. 1282, dated 21st November 1860, was made known when that letter was received, and has been followed since. It is only therefore on the Sutlej and Panjnad where the orders of the Government of India were not made known to the Commissioner, and where another rule has long been observed, that a difficulty arises.

11. I am unable to recommend any particular date from which the rule regarding avulsion shall be introduced. I beg attention to the letter of the Political Agent, Baháwalpur, and to the reasons he gives why the deep stream rule should not be changed. The report of the Deputy Commissioner of Montgomery shows some of the inconveniences which result in practice from having isolated portions of Baháwalpur territory in the Montgomery district. Considering the great difficulty of fixing a period from which the rule regarding avulsion should begin to have force, the great administrative inconvenience to which it will give rise, and the fact that no change is desired by the Baháwalpur State, I think the observance of the rule should not be enforced on the Sutlej and Panjnad between Baháwalpur and British territory.

12. I have purposely kept the consideration of the boundary between British territory and Mamdot district. It does not appear certain that the case of Mamdot is governed by the rule laid down by the Government of India in letter No. 3631, dated 24th August 1860. Those rules apply to river boundaries between British and independent territory. Mamdot is not independent, and the rules which regulate the jurisdiction between British districts on the Sutlej (see Punjab Government letter No. 198, dated 6th February 1869) have been hitherto applied. The transfers by avulsion have in the case of Mamdot been few,—the only one case is noted. The question of jurisdiction does not arise here. The land revenue is to some extent affected; for, as the deep stream of the Sutlej is considered the boundary between the Mamdot jágír and the British districts which lie on the other side of the river, the revenue of all lands transferred by avulsion or gained gradually by accretion has accrued to the Nawáb of Mamdot. So long as the jágír is under British administration the existing practice should, I think, continue.

13. I venture to remark, with much deference, on the rule laid down in the Government of India letter No. 3631, dated 24th August 1860, paras. 9, 10, that although the orders regarding cases of avulsion may be strictly just, and therefore desirable to be applied in cases where new boundaries are being fixed, as between Oudh and Nipal, yet where another custom has prevailed for a very long time, as in the present case, there is not the same necessity for adopting it. There is in the case of Baháwalpur this additional reason for not adopting it, that we have followed the rule of deep stream boundary for 24 years under British rule, and that we have merely continued the system which we found existing, and which is thoroughly understood both by the ruler of Baháwalpur and by the people living on both sides of the Sutlej and Panjnad.

No. 97, dated 9th January 1874.

From—T. H. Thornton, Esq., Secretary to Government, Punjab,

To—The Secretary to Financial Commissioner, Punjab.

I am directed to return the correspondence received with your No. 1220, dated the 17th November, showing the transfers of lands from the Montgomery district to Baháwalpur and *vice versâ*, caused by the action of the river Sutlej, since the issue of the orders of the Government of India and the Secretary of State in 1860-61 regarding river boundaries between British and independent territory, and, with reference to the Financial Commissioner's suggestions on this subject, to remark as follows.

2. The orders in question are clearly applicable to all cases of river avulsion arising between the British Government and an independent State, and the Lieutenant-Governor is accordingly unable to accede to the Financial Commissioner's proposal that the deep stream rule should be maintained for the disposal of such cases on the Sutlej and Chenáb where these rivers flow between Baháwalpur territory and the Montgomery, Mooltan, and Muzaffargarh districts. Having regard, however, to the extensive transfers which have occurred on these rivers, all of which have hitherto been decided under the deep stream rule, and the revision of which under the rules prescribed in 1860-61 would require much time and great labour and be productive of inconvenience, His Honor consents to allow the arrangements made up to the present time to remain undisturbed. But in future all cases of river changes between Baháwalpur and British territory must be decided on the Sutlej and Chenáb, as on the Indus, in strict accordance with the rules prescribed by the Government of India in 1860 and confirmed by Her Majesty's Secretary of State in 1861.

Book Circular No. I, Financial Commissioner's Office, dated Lahore, 24th January 1874.

From—J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab,

To—Commissioners, Umballa, Jullundur, Lahore, Mooltan, Deraját, and Settlement Commissioner.

Treatment of lands transferred by avulsion from British to Independent Territory.

IN 1860, on a reference from the Dera Ghází Khan district, the orders of the Government of India were issued regarding the jurisdiction and dominion of lands transferred by avulsion from one bank to the other of a river which ordinarily forms the boundary between British Territory and Independent States.

2. It has now been decided that the orders of the Government of India given in 1860 are applicable to all such cases.

An extract from the Government of India letter* is therefore herewith circulated for the guidance of those officers before whom cases of river boundary between British and Independent Territory may be brought for decision or record.

*Foreign Department No. 3631, dated 24th August 1860.

3. It will be seen that the rule of maintaining the deep stream as the boundary, which obtains in cases of gain by gradual accretion or loss by gradual erosion, does not apply to cases of the nature referred to. In cases of avulsion the land transferred is held to undergo no change in respect of jurisdiction or dominion.

It has been further ruled by the Punjab Government that the rule affirmed by the Government of India is to be regarded as having been in operation from the date of issue of the orders hereto appended, and for no anterior period. In deciding future boundary disputes to which the rule is applicable, reference must accordingly be made to the status of August 1860 as the basis of decision, subject to such modifications as, under the operation of the rule regarding gradual accretion or erosion, will have to be made; but no transfer by avulsion of land capable of identification, which has taken place subsequent to the orders of 1860, will be held to have affected the boundary.

4. The question of proprietory or other subordinate rights in the land is not affected by these orders.

No. 5. *Rule regulating jurisdiction of British and Baháwalpur Government in deserted river beds.*

No. 792 S., dated Lahore, 5th August 1876.

From—W. M. YOUNG, Esquire, Settlement Secretary to Financial Commissioner, Punjab,

To—The Officiating Secretary to Government, Punjab.

I AM desired to forward, for the orders of His Honor the Lieutenant Governor, a letter No. 10 M., dated 19th June, from the Settlement Commissioner Mooltan and Deraját Divisions, with enclosures, relating to a certain class of disputes which occur between British territory and the Baháwalpur State in regard to the beds of deserted channels of the river.

2. A rule is required to determine to which State the deserted bed shall accrue when the river changes its course. Colonel Minchin's rule is as follows:—

"That in all cases of avulsion the land transferred from one bank of the river to the other should form the limit of the demand of the State to which the land so transferred belongs, and that the new land formed by the drying up of the boundary channel becomes an increment to the main land to which it accrues. On the other hand, when a tract has been transferred by avulsion in a previous season, as the main stream is no longer the boundary, all new land thrown up between the outlying tract and the State from which it has been severed must be considered an accretion to that tract."

3. The Settlement Commissioner, who at first thought that a fixed boundary might be laid down in the river bed, which should be observed whether the river changed its course or not, has abandoned this idea in consequence of the difficulties in the way of surveying the river bed; and he refers the case for orders without pressing his own views.

4. The Financial Commissioner, after fully considering the effect of Colonel Minchin's rule, is of opinion that, although there may be cases in which it will favor one State to some extent to the detriment of the other, still that it has the great advantage of simplicity, whereas the division of the river bed would be a very intricate process. In fact, it is easier to follow the brink of a river than to maintain a boundary line in the middle of the bed. He therefore recommends Colonel Minchin's rule for sanction.

---

*Government of India, No. 3631, dated 24th August 1860 will be found on page 1249.

No. 10 M., dated Murree, 19th June 1876.

From—J. B. LYALL, Esquire, Settlement Commissioner, Mooltan and Deraját Divisions,

To—The Settlement Secretary to Financial Commissioner, Punjab.

Settlement Officer's No. 24, of 8th May, enclosing Colonel Minchin, Political Agent, Baháwalpur's No. 206, of 7th March 1876 (original.)

Copy of No. 90, of 10th May, to Colonel Minchin, and copy of my No. 7, of 15th April, to Settlement Officers, Mooltan and Muzaffargarh, which formed an enclosure to my No. 90.

Replies of Settlement Officers of Mooltan and Muzaffargarh to my No. 7 (original).

Colonel Minchin's No. 403, of 19th May, in reply to my No. 90 (original).

I HAVE the honor to forward for the Financial Commissioner's orders, the correspondence marginally noted. A ruling is required which shall fix a principle for the decision of a certain class of disputes which occur between the two States with regard to land in the beds of deserted channels of the river.

2. Colonel Minchin in his No. 403 gives his reasons for not approving the rule which I suggested in paragraph 6 of my No. 90 to his address.

It seems to me that if, as Colonel Minchin says, the original banks of a channel always remain distinguishable, then there can be no great difficulty in identifying a boundary in mid channel. I do not therefore think Colonel Minchin's reasons for objecting to my suggested rule very strong, but I do not deny that there may be some force in them.

3. If the western set of the Sutlej was a well ascertained phenomenon, it would be a reason for preferring my rule to that proposed by Colonel Minchin, but the river seems sometimes to set to the east as well as to the west. For instance, there is a dry channel called the Bhutari which runs through tahsíls Mailsi and Lodhrán; not so very long ago the Sutlej or a very large branch of that river flowed in this channel, which is a long way to the west of the present river bed. There is probably some general tendency in these big rivers to set towards the west, but there are other counteracting forces which make the effect of the tendency very gradual and uncertain.

4. It will be seen that I took the opportunity of this correspondence about a particular boundary case to suggest to Colonel Minchin that we should treat the Sutlej as we have treated the Indus in Dera Ismail Khan and Bannu, survey the whole bed of the river and fix boundaries, under water as well as on dry land, both of villages and of the two States.

I think Colonel Minchin much overrates the difficulty of relaying fixed boundaries of this kind. I agree with Mr. O'Brien, who thinks they could be very easily relaid even by a trained patwári. But no doubt the great rivalry between the officials of the two States which Colonel Minchin alludes to would make the matter more difficult on the Sutlej. If, however, the Revenue Survey party were still at work in Baháwalpur, I should be inclined, in spite of what Colonel Minchin says, to press my suggestion, but as the party has been broken up, the proper machinery is wanting, and I withdraw it altogether.

Circular No. 7, dated 15th April 1876.

From—J. B. LYALL, Esquire, Settlement Commissioner, Mooltan and Deraját Divisions,

To—The Settlement Officers, Mooltan and Muzaffargarh.

IT has been ruled by His Honor the Lieutenant-Governor (*vide* Under-Secretary to Government's No. 229, dated 16th February 1872, to Secretary to Financial Commissioner) that villages on the Sutlej, where it runs between British territory and Baháwalpur, shall not change allegiance because the deep stream of the river may turn and flow on the other side of them.

This rule has been acted on since 1872, and from what I heard while on tour lately, I understand that it has since been made to apply not only to villages, *i. e.*, blocks of land containing a village site, but to all blocks of land which are transferred by avulsion, or which emerge after the floods on the other side of the deep stream in a distinctly identifiable condition. Only villages were mentioned in the correspondence of 1872, but the same rule has been distinctly made applicable to minor blocks in the instruction contained in Financial Commissioner's Book Circular No. I of 1874.

2. The rule for deciding the boundary of the two territories has therefore become that by which the proprietory claims of the landholders on both banks are decided in some districts, *viz.*, all land transferred across the deep stream by avulsion or emerging after flood in a clearly identifiable condition belongs to the original owner, and all land emerging in a not clearly identifiable condition or forming by gradual accretion belongs to the estate on whose side of the deep stream it is situated.

3. But on both banks of the Sutlej, between Baháwalpur and the Mooltan and Muzaffargarh districts, I understand that it is everywhere admitted that the wár-pár custom is in full force in respect to proprietory claims between landholders living on the opposite banks. It is part of this custom that a proprietor not only follows identifiable land across the deep stream, but, if he can show that the site originally belonged to him, he also goes across and obtains possession of land emerging from the river or forming against the opposite bank by gradual accretion. The wár-pár custom may be said to ignore the river, and to presume that either under water or out of water the opposite estates have a fixed common boundary.

4. This seems to be the almost universal custom on all rivers in this southern part of the Punjab, and it is the less surprising to find it in existence here, seeing that for a long time the country now in the Mooltan and Muzaffargarh districts along the western side of the river was in Baháwalpur territory. The custom has survived up to date notwithstanding that proprietors on the British side were at one time much discouraged from claiming land across the river by the tyranny and anarchy which then prevailed in Baháwalpur.

5. Now that the deep stream territorial rule, which had its advantages, has been abandoned, I can see no reason why the rule for the decision of boundaries between the two territories should not be brought into conformity with the rule for decision of boundaries of estates. I venture to suggest that for this purpose village boundaries, which would also be territorial boundaries, should be fixed under water as well as out of water, and that maps taking in the whole river bed should be made accordingly, as has been done lately in Bannu, Dera Ismail Khan, and a part of Dera Gházi Khan.

6. It seems to me that disputes, difficult to settle, will constantly arise between the two States if the present partly fixed and partly shifting rule of territorial boundary is maintained, and between their subjects if boundaries of estates under water as well as out of water are not fixed and mapped down. In consequence of long standing disputes of this kind it was found necessary to have a fixed boundary on the Indus between the Dera Gházi Khan district and Baháwalpur.

7. I believe that a Revenue Survey Party is now finishing work in Baháwalpur territory. If you and the Baháwalpur authorities could agree to recommend the adoption of the measure I have suggested, I think it likely that Government would sanction the employment of the party in the survey of the river bed. As revenue surveys have been made on both sides of the river, all that would have to be done would be to connect them under water. Boundaries would have to be fixed by officers deputed by both States; the Revenue Surveyors would do the mapping, and the map of the river bed and adjacent villages which they would make, would render it easy to at any time decide disputes and relay boundaries.

8. I shall be much obliged by your giving me your opinion on the measure suggested after consulting Munshi Hukm Chand and Ghulám Murtaza, Extra Assistants, who have been lately engaged in settling some disputes as to boundaries with the Baháwalpur authorities.

Please see if my description of present practice is correct; it may be wrong in some details as I made no particular inquiry. If you agree with me I will address Colonel Minchin on the subject, unless you think it would be better for you yourself to consult him in the first place before giving me a reply.

No. 90, dated 10th May 1876.

From—J. B. LYALL, Esquire, Settlement Commissioner, Mooltan and Deraját Divisions,

To—The Political Agent and Superintendent, Baháwalpur.

YOUR No. 206, of 7th March last, to Mr. Roe, Settlement Officer, Mooltan, regarding a dispute as to the proper boundary bewteen the Baháwalpur State and the Mooltan district, has been sent to me by Mr. Roe with his No. 24 of 8th instant, copy of which is annexed.

2. Before sending up the correspondence for the Financial Commissioner's orders, I have the honor to ask you to be so kind as to tell me whether I rightly understand the principle of decision for which you contend.

3. In the first place I understand that you are considering the dispute solely from the State boundary point of view, leaving proprietory claims to be decided separately if there be any dispute under that head.

4. In the second place, I understand that you construe the rules for decision of State boundaries contained in Financial Commissioner's Book Circular I of 1874 as follows, *viz.*, all increment by gradual accretion or by desertion of the river belongs by those rules to the State on whose side of the deep stream it is situated, notwithstanding that such increment may occupy a position alongside land which, under the rule regarding avulsion, has remained the territory of the State on the other side of the deep stream.

5. The rules may certainly be construed in this way, but I am not sure that such a construction is necessary, or that it is the fairest which could be determined. You will, I think, agree that it would not do to hold to it literally in every case; for instance, suppose that the river had remained in the channel C. D., but had worked gradually towards Jhaidu Husain Shah, and that new land had in consequence accreted on the C. D. side of the block A. C. D. F. B.; such accretion, though on the Baháwalpur side of the deep stream, would surely belong to the Mooltan district, to which the block A. C. D. F. B. belongs, and not to Baháwalpur, though on that side of the deep stream.

6. In the present case I am inclined to hold that it would be fair to decide that the deserted channels F. A. and A. B. should be divided half and half between the two territories by a line running down their centres. In short I would admit the principle that a State is entitled to new land forming by accretion against a block of its territory

across the river, and would lay down the rule that when such land accretes suddenly by desertion of the river, it should belong entirely to the block, if situated on its inner side, which looks towards the territory to which the block belongs, and half-and-half to both States, if situated on its outer side, that is between the block and land belonging to the other territory.

7. I take this opportunity of asking you to do me the honor of considering a suggestion which I made lately to the Settlement Officers of Mooltan and Muzaffargarh. I send copy of my letter to them, No. 7 of 15th ultimo, and of Mr. Roe's reply, No. 25 of 8th instant. Copy of Mr. O'Brien's reply will be sent when received.

This proposal has been carried out on the Indus with the sanction of Government (passed on my No. 105 of 27th August 1872, of which I send copy for perusal) with effect to the Bannu and Dera Ismail Khan districts and that part of the latter district which fronts part of Dera Gházi Khan. It was found easy enough to make an award with regard to boundaries in land under water which should be fair and satisfy the parties. The Revenue Surveyors have prepared sheet maps on a large scale showing all boundaries in or out of water of all villages between the opposite high banks of the Indus. We think that even a well-trained patwári will have no difficulty in relaying boundaries on the ground from these maps.

No. 24, dated 8th May 1876.

From—C. A. Roe, Esquire, Settlement Officer, Mooltan,

To—The Settlement Commissioner, Mooltan.

I have the honor to forward, in original, a letter from Lieutenant-Colonel Minchin, Superintendent of the Baháwalpur State, on the subject of a disputed boundary between Mooltan and Baháwalpur.

2. The facts of the case are very clearly set forth in Colonel Minchin's letter and its accompanying map. As he says the actual dispute is immaterial, and had it not been that it appears to me that orders are required on the general point raised, I should have withdrawn my former opinion and have concurred with Colonel Minchin. Rai Hukm Chand says that the channel A. B. did not dry up in 1874; there was still water in it in 1875, but this point appears to me immaterial. If Baháwalpur had a right to A. B. in one year, it would have it in another. The channel A. B. must be dry now, for Rai Hukm Chand claims it for Mooltan.

3. The general point on which a ruling is required appears to me to be this: When the bed of the river which formed the boundary between two districts dries up, to which does it belong ? I would therefore request that the necessary orders may be obtained.

No. 206, dated Baháwalpur, 7th March 1876.

From—Lieutenant-Colonel C. C. Minchin, Political Agent and Superintendent, Baháwalpur,

To—The Settlement Officer, Mooltan.

With reference to your rubkári of the 14th February, regarding a disputed boundary between the villages of Jhaidu Husain Shah, in the Mooltan district, and Binda Ghulám Rasúl, in the mauza of Luddan in this State, in which the opinions of Extra Assistant Commissioner of Settlement Hukm Chand and Názim Lálji Pershád were at variance, and that you consider Extra Assistant Commissioner Hukm Chand's opinion to be correct.

2. The question would be immaterial were it not a part of a system the rules of which require to be clearly defined for future operations.

3. I attach a sketch map taken from the Revenue Survey maps of the State, which I consider clearly shows the points at issue.

4. In 1873-74 the River Sutlej was flowing in the channel marked A. B. F. and the tract A. C. D. F. B. formed a portion of the Mooltan district. In 1874-75 the river returned to the old channel C. D., but under the rules of avulsion the above tract of land still remained a portion of the Mooltan district.

5. In 1875-76 the river returned to the channel of 1873-74 as far as the point B. and then formed a new channel to F. The tract F. A. B. under the rules of avulsion now belongs to the Baháwalpur State, but the old channels, F. to A. and A. to B., having dried up, the question has arisen to whom they should belong. Pandit Lálji Pershád considered that the land newly thrown up from F. to A. properly accrues as alluvion to the Mooltan district, and the portion from A. to B. to the Baháwalpur State, while Extra Assistant Commissioner Hukm Chand considers that both should belong as alluvial deposit to Mooltan, in which opinion you concur.

6. Now as I see the case, it appears to me that the bed of the channel from A. to B. was transferred to the Baháwalpur State in 1874-75 when the river took the channel from D. to C. Your claim to the tract A. C. D. E. B. was at once admitted, but the right bank E. B. A. was then your boundary, and the land in the channel A. to B. accrued by alluvion to the Binda Ghulám Rasúl village, and has nothing to do with this year's change, that it is part and parcel of the tract F. A. B. which, under the avulsion rule, has been decided as belonging to the State. The channel F. A. is an accretion to the Mooltan district of this year.

7. If you do not concur in my views, I shall be glad if you will refer the case for the decision of the Financial Commissioner.

F. A. B. River in 1873.

F. A. C. D. ditto 1874.

F. B. E. ditto 1875.

A. C. D. E B. transferred by avulsion from right to left bank of the river in 1874, but remained in possession of Mooltan district, the channel A. B. having dried up accrued by alluvion to the Baháwalpur State that year.

A new channel having been formed in 1875, F. B. E., the tract shown in shading, was transferred by avulsion to right bank: the old channel A. B. having accrued to it the previous year is part and parcel of it, and under the rules of avulsion belongs to the Baháwalpur State.

No. 403, dated Baháwalpur, 19th May 1876.

From— Lieutenant-Colonel C. C. MINCHIN, Political Agent and Superintendent, Baháwalpur,

To—The Settlement Commissioner, Mooltan and Deraját Divisions.

I HAVE the honor to acknowledge the receipt of your letter No. 90, dated 10th current, regarding a boundary dispute between the Baháwalpur State and the Mooltan district, in which you require further information on certain points.

2. As you state, I regarded the dispute solely from the State boundary point of view, leaving proprietory claims to be decided separately.

3. All such cases must to a certain extent be decided by mutual compromises, and to prevent future disputes, it is advisable that such boundaries should be fixed as are capable of subsequent recognition. Now in the case of land redeemed by the drying up of an old channel of the river, it seems to me that to divide the channel between two Governments is likely to give rise to future disputes; the land being low is certain to be flooded, and in the course of two or three years will silt up to the height of the adjoining land, but the original banks will always remain and form clearly distinguishable landmarks which would admit of no dispute, and therefore I consider the whole tract thus redeemed should be assigned to one party or the other.

4. As such cases only occur when land is transferred by a change in the course of the stream, my proposal is that in all cases of avulsion the land transferred from one bank of the river to the other should form the limit of the demand of the State to which the land so transferred belonged, and that the new land formed by the drying up of the boundary channel becomes an increment to the main land to which it accrues; on the other hand, when a tract has been transferred by avulsion in a previous season, as the main stream is no longer the boundary, all new land thrown up between the outlying tract and the State from which it has been severed must be considered an accretion to that tract.

5. The present case exactly illustrates both these proposals. In 1874 the tract of land marked in the sketch map forwarded by me to Mr. Roe, A. C. D. E. B., was transferred by avulsion from the right to the left bank of the river by a change in the course of the stream and remained under the rules of avulsion the property of the State to which it originally belonged, *i. e.*, the British Government, but according to my proposal the actual land so transferred is the limit of the Government demand, and the new land formed by the drying up of the old boundary channel between A. and B. accrues by alluvion to the Baháwalpur State.

6. In 1875 a new change took place in the course of the river; the channel F. A. C. D. dried up, the old channel E. to B. re-opened and a new channel was formed from B. to F. The tract of land F. A. B. was thus transferred by avulsion from the left to the right bank, but remained in possession of the Baháwalpur State. According to my proposal the new land formed by the drying up of the channel F. to A. is increment to the main land, that is the Mooltan district, precisely as in the previous year the tract A. to B. accrued as alluvion to the Baháwalpur State.

7. The land formed by the drying up of the channel A. C. D. is also increment of the Mooltan district, as lying between the outlying tract A. C. D. E. B. and the main land from which it has been severed; the same rule would also hold good in the case mentioned by you if the river had remained in the channel D. C. A. F., but had gradually worked into the right bank, all lands accruing to the outlying tract would belong to the Mooltan district, as in this case the river is no longer the boundary, but from the point A. the river again becomes the boundary and new land thrown up on the left bank belongs to the Baháwalpur State.

8. With regard to your proposal of making fixed village boundaries which should also be territorial boundaries, to be fixed under water as well as out of water, and that maps taking in the whole river should be made accordingly, I have the strongest doubt whether it could be carried out except in districts under one Government.

9. The Revenue Surveyors employed in this State completed their work a year ago, and the party has been broken up. The changes in the course of the different rivers have been so numerous even in this short period that their maps would form no accurate basis for such a settlement as you propose.

10. It would require a trained surveyor, furnished with the original field books, to recover the village boundaries, and this would have to be done along the whole river bank as regards the State, a distance in length of 300 miles, except where the river had entirely changed its course, as has been the case with the Indus, and should run through one district. Everything would then depend on the integrity of the surveyor or patwári employed by the opposing States, and who could decide if they disagreed. In my experience the greatest obstacle to a satisfactory settlement of these boundary disputes arises from the conduct of the subordinate Revenue officials on both sides of the river, who are far more eager in advancing the claims of their own masters than any one else, and wilfully falsify facts to suit their supposed interests, and if they should have to define the village boundaries every year after the subsidence of the floods, I am afraid the result would be that we shall get out of the frying-pan into the fire.

11. In paragraph 6 of your letter to Mr. Roe, you state that in consequence of long standing disputes of this kind it was found necessary to have a fixed boundary on the Indus between Dera Ghází Khan and Baháwalpur, but this does not represent the real facts of the case.

12. In 1859, when I was Officiating Deputy Commissioner of Dera Ghází Khan, I obtained from Colonel Mereweather, then Political Superintendent, Upper Sindh Frontier, a copy of the decision in the case of the Kasmore Kaçhi decided by General Jacob, which I submitted to Government with a recommendation that it should be considered a precedent for the decision of a similar dispute regarding the Kachi Chauhán, then under investigation. Mr. Cust, who was then Financial Commissioner, strongly recommended that the main stream should be considered the boundary, and that the Kasmore case should be reinvestigated and decided in accordance with this ruling; the proceedings were forwarded to the Supreme Government, when the law of avulsion was promulgated and all boundary disputes between Baháwalpur and Dera Ghází Khan ordered to be decided accordingly.

13. Between the years 1859 and 1872, in consequence of the westerly set of the Indus, nearly the whole of the land bordering the river on the left bank is now a portion of the Dera Ghází Khan district, and the State lands only touch the river at three points throughout the whole 70 miles of what was once river border. Except therefore at these three points no disputes can arise unless the river should ever return to its old channel, which is most unlikely, because flowing from north to south its westerly tendency is the natural result of the earth's revolution from west to east. *See* Cunningham's Ancient Geography of India, page 251.

14. The Sutlej and Chenáb flowing from east to west are not so subject to the same influences, though even here the gradual set of the river towards the right bank is perceptible, although not to such an extent as on the Indus, as it is checked by local causes, chiefly the endeavour on the part of the river to adjust its bed during the cold weather to such a level as will give uniform flow of current, and it is this which makes its course so tortuous.

15. With a river frontage of 300 miles in extent, any system of boundary settlement that would work easily would be the greatest boon imaginable, and, if in practice the arrangement you propose proves satisfactory, it might hereafter be adopted if sanctioned by Government, but departmental friction would be very difficult to overcome, and I fear that the State interests would suffer.

No. 103, dated 12th June 1876.

From—E. O'Brien, Esquire, Settlement Officer, Muzaffargarh,

To—The Settlement Commissioner, Mooltan and Deraját Divisions.

I have the honor to reply to your Circular No. 7, dated 15th April 1876, regarding the mapping of the bed of the Panjnad between Muzaffargarh and Baháwalpur.

2. I have consulted Ghulám Murtaza and examined the former records of transfers of land from one bank to another, and of disputes regarding transferred land. The cases have been very few. The deep stream has always been considered the boundary between Baháwalpur and this district as regards jurisdiction.

3. As regards proprietory right in land, enquiry shows that the invariable custom is that a proprietor not only follows identifiable land across the deep stream, but if the site originally belonged to him he obtains land which emerges from the river or which forms by gradual accretion.

4. The rule of the deep stream being the territorial boundary, having been abrogated as regards changes by avulsion, there can be no doubt that it will assist the decision of future disputes if the boundaries of estates are fixed and mapped under water as well as out of water.

5. I do not think that it would be at all difficult to recover the village boundaries as apprehended by Colonel Minchin in the 9th paragraph of his letter No. 403, dated 19th May. It is a very simple bit of surveying. I have made enquiries and find that all the patwárís could do it, and that the patwárís of river-side villages could do it with the greatest ease.

No. 25, dated Mooltan, 8th May 1876.

From—C. A. Roe, Esquire, Settlement Officer, Mooltan,

To—The Settlement Commissioner, Mooltan.

I have delayed replying to your Circular No. 7, dated 15th ultimo, because I was waiting for a return of the disputes with Baháwalpur since the commencement of the settlement; I had called for it before the receipt of your letter; the inconvenience of the present system had struck me so strongly that I intended myself to suggest its alteration.

2. I need hardly say that I entirely agree with you in thinking it very desirable that the whole of the river bed should be mapped and the boundaries of the villages permanently fixed. My own enquiries as to the custom regarding proprietory rights show it to be as described in paragraph 3 of your letter, and it would save many disputes hereafter to have the boundaries fixed once for all.

3. But it is with reference to the question of jurisdiction that I think the change is most urgently required. There were no disputes down to 1874-75, simply because the new rule was never acted on. The deep stream continued as before to be regarded as the boundary of the two districts. As soon as the rule was enforced disputes became numerous. There were 7 cases in 1874-75; there have been 13 in 1875-76, and 6 of the latter are still unsettled. There is every prospect that in future years disputes will be far more numerous and protracted. The present rule appears to me unworkable in practice from two causes :—

I.—It is almost impossible to complete the local enquiries in the proper time.

II.—There is no tribunal to decide the dispute authoritatively.

4. As regards want of time, the difficulty is this. The patwárís have to measure the lands affected by the action of the river and to report to the Tahsíldár all cases coming under the rule. The Tahsíldár has to inspect them himself and report to the Deputy Commissioner (or Settlement Officer), who informs the Baháwalpur Darbár, and asks it to depute some one to meet a British official and visit the lands together. Now the floods do not subside till October; this year it was December before the patwárís could take the field; their work was not over till the end of January. The Superintendents checked the work as soon as possible, and Rái Hukm Chand, Extra Assistant Settlement Officer, lost no time in visiting the spot in company with a Baháwalpur official. But even then in more than one instance the floods had again submerged the disputed spot, and nothing could be done. If this is the case when the settlement is in operation in Mooltan (thus providing an unusually strong staff of measuring and supervising establishment) and Baháwalpur is under an English officer who can correspond direct with the Mooltan authorities, what will it be when the settlement is closed and when Baháwalpur is under purely native rule?

5. As regards the want of a proper tribunal, I am sending you to-day a separate reference which fairly illustrates what these disputes are. They are generally of a most trumpery character, and, if they occurred between private parties, they would be disposed of by a Superintendent or Tahsíldár. At present the practice is, when both the officials agree, for the land to be allotted accordingly, but I rather doubt if even this is strictly correct. Where there is a dispute it appears to me absolutely necessary to refer the case for the orders of Government. Long before those orders can be received the floods have again risen, and very probably they have rendered it impossible to carry out any order that may eventually be passed.

6. I have consulted Rái Hukm Chand, who has done the whole of the alluvion and diluvion work including the settlements of these disputes for the last two years, and he quite agrees with all the views expressed in this letter. I have not written to Colonel Minchin on the subject, because I have been desirous of replying to your letter as soon as possible, and I have thought it better to leave it to you to communicate with him.

No. 1720, dated Lahore, 31st October 1876.

From—Lepel Griffin, Esquire, Officiating Secretary to Government, Punjab,

To—The Secretary to Financial Commissioner, Punjab.

With reference to your letter No. 792 S. of the 5th August last, with its enclosures, on the subject of certain disputes which occur between British and Baháwalpur territory in regard to the beds of deserted channels of the river Sutlej, I am desired to state that the Honorable the Lieutenant-Governor sanctions the adoption of the rule recommended by Captain Minchin and approved by the Financial Commissioner for determining to which State the deserted bed shall accrue, as the rule proposed seems to His Honor unobjectionable.

2. The original enclosures of your letter are herewith returned.

gone on up to this time. Colonel Minchin's rule, I admit, is very simple on paper, but in practice it is quite the contrary, as I think the last case about the Husain Shah lands clearly shows. At the present moment there are 12 spots in the Mailsi tahsíl alone at which disputes have to be settled. The time for settling them is necessarily short, as for a considerable portion of the year the low lands are flooded, and every year the appearance of the land changes and the difficulty of settling questions increases. Practically, the deep stream is now no longer the boundary for at least half the whole length of the river in this district. I would strongly urge the desirability of returning to the old rule and declaring that the deep stream should in all cases be considered the boundary between the two States, questions regarding proprietory right in the land to be decided by the people themselves according to custom.

No. 193, dated 7th May 1886.

From—G. R. ELSMIE, Esquire, Commissioner and Superintendent, Lahore Division,

To—The Deputy Commissioner, Mooltan.

I HAVE the honor to acknowledge the receipt of your No. 274, dated 16th ultimo, and to say that the question now raised by you is a very large and important one, and that I shall not be prepared to deal with it until next cold weather, when I hope to be able to travel in the Mooltan District, and also to confer with the Baháwalpur authorities in regard to the matter.

No. 333, dated 25th April 1887.

From—Major J. B. HUTCHINSON, Deputy Commissioner, Mooltan,

To—The Offg. Commissioner and Superintendent, Lahore Division.

IN continuation of my letter No. 274, dated 15th April 1886, and in reply to your letter No. 100 of 22nd March 1887, I have the honor to inform you that Bhawáni Dás, Extra Assistant Commissioner, has now returned from the work on the Sutlej river boundaries. He informs me that, with the exception of two or three places, he has been able to settle all disputes amicably with the Baháwalpur authorities and without any loss. I have not yet received his full report.

2. I enclose now returns showing the amount of land still calculated in this district which lies south of the Sutlej, and the approximate amount of land belonging to the Baháwalpur State lying on this side. This latter being Baháwalpur territory, I cannot of course say what revenue it would yield.

3. Besides former reasons given for returning to the old deep stream rule, I would beg to add the difficulty which the residents of British territory lying on south bank of the Sutlej have in all police matters. They are cut off from their thana by the river, and of course get no help from the State, and so in the same way the Baháwalpur men are cut off from their thánas.

Again, the difficulty of crossing the river necessarily tends to deter the patwárís and revenue officials from going over to properly measure up lands cultivated on south of the river, and so there is probably considerable loss to the fluctuating revenue.

4. As a general rule the lands thus transferred are either barren waste or covered with low farrásh scrub which gives no revenue. The actual gain or loss to the Government or the State by declaring the deep stream to be always the boundary would be quite immaterial, while the advantages to both are obvious, more especially in thous securing river frontage for the various canals which draw water from the river on either side. The disadvantage of leaving a slice of Baháwalpur territory lying between British territory and the river has been twice amply shown when canal heads have had to be taken up; for instance, in last year when the Baháwalwah head had to be extended through Baháwalpur territory. See correspondence ending with your No. 14, dated 7th January 1887.

---

*Statement showing Area and Jama of Villages carried away by River action to Baháwalpur side.**

Number of Estates.	Area.	Jama.
Tahsíl Lodhrán.	Rs. A. P.	Rs. A. P.
8 Estates	3,459 3 37	278 5 0
Tahsíl Mailsi.		
36 Estates	19,639 0 0	1,581 8 0
Grand Total, 44 Estates ...	23,098 3 37	1,859 13 0

NOTE.—The area shown is very great as compared with revenue. The fact is the greater part of the land is sandy waste or thickly covered with scrub.

* Village details given in original omitted in reprinting.

No. 776, dated Dera Ismail Khan, 14th July 1887.

From—Colonel E. L. OMMANNEY, Commissioner and Superintendent, Deraját Division,

To—The Senior Secretary to Financial Commissioner, Punjab.

I HAVE the honor to return the original correspondence forwarded with your No. 3120, dated 21st May last, regarding the existing rule for settling the boundary between the Baháwalpur State and the Mooltan District, and also to forward copy of Deputy Commissioner Dera Gházi Khán's No. 415, dated 23rd ultimo,* who, as regards his opinion, refers to paragraph 8 of his letter No. 414, dated 23rd idem, submitted to you with this office No. 741, dated 6th instant.

* Not reprinted.

2. I am decidedly of opinion that the boundary between the Baháwalpur State and the Dera Gházi Khan District should be permanently fixed. The correspondence returned shows that between that State and Mooltan district considerable losses and gains to either side are caused by the shifting of the Sutlej main stream, and on this account, and because proprietory right of individuals in lands acquired by alluvion is not recognized by the Baháwalpur State, I am also of opinion that the boundary there should be fixed. The objections as to uninterrupted river face for canals, police and revenue administration of the tracts that under this system would be separated by the main stream from their respective Governments are of little weight as compared with the advantage of a fixed boundary, fixing the jurisdiction of the Government once for all, and also securing proprietory rights and avoiding the recurrence of vexatious and complicated disputes. The granting of heads for canals should not be attended with much difficulty, and where British subjects would have to give land for such a purpose, they would probably more willingly hold their land subject to occasional demands of this kind than by the deep stream rule run the risk of losing their lands altogether. The question is more important as regards the Dera Gházi Khan district, because the set of the Indus has been for some time to the west to the loss of British territory.

3. The pamphlet on river law in the Punjab, circulated under cover of Financial Commissioner's memo. No. 6541, dated 1st November 1869, commences with letters from the Registrar, Chief Court, and Financial Commissioner, in which the impracticability of a fixed boundary is discussed and accepted; but subsequent experience has established its feasibility: the river Indus above Dera Ghází Khan has been mapped, and there can now be no objection on the score of difficulty to such a system of demarcating the boundary.

No. 639, dated Lahore, 20th August 1887.

From—R. G. THOMSON, Esquire, Senior Secretary to Financial Commissioner, Punjab,

To—The Secretary to Government, Punjab.

WITH reference to your No. 242 of 27th April 1887 and other correspondence, I am directed to submit in original, with enclosures, for the consideration and orders of Government, a letter from the Commissioner of the Deraját, No. 741 of 4th July 1887, giving cover to Mr. Diack's report on the boundary disputes between the Baháwalpur State and the Dera Ghází Khan district.

2. Mr. Diack's report is full and clear, and is worthy of the commendation of Government.

3. It will be seen that there are in all thirteen different cases of dispute. In ten of these cases Mr. Diack has come to an agreement with the Baháwalpur authorities, and his conclusions are accepted by the Deputy Commissioner and by the Commissioner. In all these cases, therefore, the Financial Commissioner thinks that the decisions arrived at should be confirmed.

4. In the remaining three cases no settlement has been arrived at. The first of them is comparatively simple. It relates to Kacha Khan Muhammad Chakar, and the whole question really at issue is whether the land is really identifiable or not. As to this, the Financial Commissioner considers that the facts and arguments of Mr. Diack are very strong, and that his conclusion should be accepted, the Chakar being retained as a part of the Dera Ghází Khan district.

5. The remaining two disputes are of a more complex character, and really depend for a decision on the interpretation to be given to certain doubtful questions of riverain law. The issues may be said to be three, *viz.*:—

I.—The correct interpretation of the existing usage as governing the limits of political jurisdiction.

II.—The merits of that usage, and whether it should be modified.

III.—Claims of ownership.

No. 6.—*Proposals for laying down of fixed river boundary between British and Baháwalpur territory.*

No. 52 C., dated Simla, 4th August 1887.

From—R. G. Thomson, Esquire, Senior Secretary to Financial Commissioner, Punjab,
To—The Secretary to Government, Punjab.

I am directed to submit for the consideration of Government a correspondence showing the embarrassments which are arising out of the existing rules, by which the boundary between Baháwalpur and British territory is decided, where that boundary follows the bed of the Sutlej river.

2. In the correspondence marginally noted the principle of a deep stream boundary was accepted by the Government of India, but modified by the adoption of the doctrine that land capable of identification, if transferred across the deep stream by avulsion, might be followed and retained by its former rulers. This decision was confirmed by the Secretary of State and declared general by the Punjab Government in Mr. Thornton's letter No. 97 of 9th January 1874.

Punjab Government No. 1282 of 21st November 1869, and enclosure.

3. Two years afterwards a subsidiary rule, commonly known as Colonel Minchin's rule, was sanctioned by the Punjab Government in a letter, No. 1720 of 31st October 1876. This rule introduced no new principle, but merely declared how the system sanctioned by the Government of India was to be applied in certain cases, the point at issue being how far land which had been subjected to avulsion and followed across the deep stream by its former ruler was to be permitted to be a source from which that ruler might derive increments of territory.

4. I am now to enclose, in original, the marginally-noted letter from the Commissioner of Lahore, in which that officer and the Deputy Commissioner of Mooltan point out the unnecessary and unending trouble which is caused by the boundary disputes and investigations which are inevitable under the present system. The Financial Commissioner referred this letter to the Commissioner of the Derajút for an opinion, which was furnished in a letter, No. 776 of 14th July 1887, which is also submitted in original. It will be seen that Colonel Ommanney also is decidedly opposed to the existing methods.

No. 308 of 7th May 1887, and enclosures.

5. It appears to the Financial Commissioner that between two States, such as Baháwalpur and British India, the only possible boundary rules which can prove satisfactory are either the deep-stream rule, pure and simple, or the fixed boundary line pure and simple. Any mixture of the two systems is almost certain to work badly. The fixed boundary is theoretically the best solution of the question. But as applied between States on the river Sutlej it might lead to trouble about jurisdiction or criminal and other administration. The Deputy Commissioner of Mooltan also thinks that some inconvenience might arise as to sites for canal heads. But to a greater or less degree all these suggested difficulties might in all probability be either prevented or minimized. The fixed boundary would probably also be in the long run advantageous to the British Government if, as has been asserted, the Sutlej tends to shift towards Mooltan.

6. The deep-stream rule, pure and simple, is, on the other hand, very advantageous in regard to all the matters upon which difficulties might arise under the fixed boundary. And there would be little objection if, as is probable, the Baháwalpur State would consent to allow private rights to be maintained in spite of a change of jurisdiction.

7. Either rule appears to be distinctly superior to the present system, and I am therefore to enquire whether Government is disposed to deal with the subject, with a view to the introduction of one or other of them.

No. 308, dated 7th May 1887.

From—W. Coldstream, Esquire, Offg. Commissioner and Superintendent, Lahore Division,

To—The Senior Secretary to Financial Commissioner, Punjab.

In submitting, for the information of the Financial Commissioner and of Government, copy of the correspondence marginally noted, my desire is to invite attention to the inconvenience which the present arrangement as to river boundary with the Baháwalpur State involves. Whether there is sufficient cause shown for reconsideration of the order of the Government of India of 1860 (No. 3631, from Deputy Secretary to Government of India, to Government, Punjab, of 24th August 1860*), and if so, whether under the circumstances any action is desirable, His Honor the Lieutenant-Governor will no doubt decide; but the inconveniences arising out of the present system are undoubtedly considerable.

Deputy Commissioner Mooltan's No. 230, dated 3rd April 1886, and enclosure.
Commissioner's No. 136, dated 7th idem.
Deputy Commissioner's No. 274, dated 16th idem.
Commissioner's No. 193, dated 7th May 1886
Deputy Commissioner's No. 333, dated 25th April 1887.

No. 230, dated 3rd April 1886.

From—Major J. B. Hutchinson, Deputy Commissioner, Mooltan,

To—The Commissioner and Superintendent, Lahore Division.

I have the honor to invite your attention to my remarks on paragraph 28 of Rai Karm Chand's diary forwarded to you this day, a copy of which is attached for easy reference. The question is one that calls for immediate decision.

Remarks by Deputy Commissioner.

The state of the boundary between Baháwalpur and Mooltan is most unsatisfactory. A settlement is going on in two tahsils of Baháwalpur, and I find that in many places the Baháwalpur Patwárís have measured up land hitherto shown in our shajras. I am of opinion that one of two courses is necessary—

(1) that the deep stream of the Sutlej should be considered the boundary between Baháwalpur and Mooltan, wherever it may run; or

(2) that the whole bed of the stream should be surveyed and a permanent boundary laid down.

The former is far preferable, inasmuch as both States draw off water by inundation canals and should have the deep stream as their frontage.

(Sd.) J. B. Hutchinson.

Extract from Diary of Rai Karm Chand, Extra Assistant Commissioner.

Besides I find that the Government decision arrived at in 1871 about the boundary disputes between the Mooltan District and Baháwalpur State is not acted upon in this tahsíl. The principle on which such cases are decided in the Lodhrán tahsíl differs from the one observed in the Mailsi tahsíl, which, I think, is in accordance with the Government decision.

As one and the same principle should be acted on in both the tahsils, a report is submitted to the Deputy Commissioner for orders.

No. 136, dated 7th October 1886.

From—G. R. Elsmie, Esquire, Commissioner and Superintendent, Lahore Division,

To—The Deputy Commissioner, Mooltan.

Acknowledges receipt of his No. 230, dated 3rd instant.

2. Calls the Deputy Commissioner's attention to the printed correspondence, Foreign Department, October 1876, No. 31, river boundary between British and Baháwalpur territory.

3. Begs to point out that the principle which the Deputy Commissioner advocates has apparently been fully accepted by Government. See Mr. Griffin's letter No. 1720, dated 31st October 1876.†

4. If in any particular instance the Baháwalpur authorities have departed from that principle, a specific and detailed report should be made for the orders of Government.

No. 274, dated 16th April 1886.

From—Major J. B. Hutchinson, Deputy Commissioner, Mooltan,

To—The Commissioner and Superintendent, Lahore Division.

With reference to your letter No. 136, dated 7th April 1886, I have the honor to inform you that I have perused the correspondence mentioned by you. The rule regarding old river beds, as laid down by Colonel Minchin and accepted by Government, was known to me before. I would invite your attention to letter No. 25, dated 8th May 1876, from Mr. Roe, to the Settlement Commissioner, which is in that correspondence. The case seems to be as follows:—To begin with, the deep stream of the river was considered to be the boundary between the two States, and up to 1873 there were no disputes. Then the rule of avulsion was introduced, and immediately disputes began as described by Mr. Roe, and so matters have

* See p. 1249.

† See p. 1264.

6. On the first of these points, it appears to the Financial Commissioner that Mr. Diack and the Deputy Commissioner are in effect attempting so to use an exception to the general usage as to change that usage itself. The Baháwalpur authorities appear to be right in contending that the exception should not be extended in this way, but should be confined strictly to the circumstances which it is intended to cover. The general rule is that the main stream is the boundary. The exception is that so long as land is identifiable the rule should not be acted on. The Financial Commissioner understands the local British authorities to contend that, when once, under the operation of the exception, British jurisdiction has been maintained on a tract of land on the left bank of the Sutlej, that jurisdiction should endure even though the land be diluviated in part or in whole,—in fact that the British jurisdiction shall endure after the circumstances have ceased to exist by which the exception to the general usage was justified. This contention cannot, in Colonel Wace's opinion, be supported. Whatever land is so diluviated that it is no longer identifiable should be governed in respect of jurisdiction by the main usage, that is to say, by the deep stream rule.

Foreign Department, Punjab Government Proceedings No. 792 S., dated 5th August 1876.

7. It may be said that the rule now known as Colonel Minchin's rule is at variance with the Financial Commissioner's view, in so far as it contemplates adding to an avulsed tract any land newly accreted between that tract and the main stream. There is, I am to remark, some force in this contention, but the circumstance that the exception expressed in the doctrine of avulsion has received one extension of this nature is not in itself a justification for further extensions.

8. Similarly, the rule laid down by Captain Grey and Mr. Fryer in 1872, with the approval of the Punjab Government, was in the main a decision on the question whether these avulsed tracts could be extended by accretion up stream and down stream. The decision then laid down was that they could not.

9. The point now in issue is affected neither by the decision of 1872 nor by Colonel Minchin's rule. It is a new one, and if the view taken by the Financial Commissioner is correct, the decision might be expressed thus:—

> When the boundary between two States is governed by the main stream, but under the rule of avulsion one of these States has retained possession of land on the side of the main stream opposite to its own jurisdiction, the claim of that State over any of that land does not endure after the land has been so diluviated as to be no longer identifiable.

This destructive diluvial action is not necessarily caused by the main stream; on the contrary, it usually occurs at a season when the river is in heavy flood, and the action of its waters extends far beyond the channel which the main stream follows at other seasons.

10. On the 2nd question, the merits of the main stream usage as the rule by which on the Sutlej river the limits of the British and Baháwalpur territories are decided, the Financial Commissioner has already expressed his opinion in this office No. 52 C., dated 4th August 1887. If enforced absolutely without the exceptions introduced by the rule of avulsion, it has the merit of simplicity. But it is not really suitable to a condition of settled administration, and it is in strong opposition to the usage of fixed boundaries by which all down the Indus to its junction with the Chenáb the ownership of the Indus alluvial is governed. Under settled government it is not practicable to refuse to qualify the usage by the rule of avulsion; but, when once this qualification has been admitted, the simplicity of the main stream usage is destroyed, and the door is opened to contentions, equally in respect of actual facts and in respect of the manner in which the qualification should be applied, which are of an embarrassing nature, and which are not likely to be decided except after reference to the central Government.

11. The Financial Commissioner does not share the apprehensions which have been expressed, that fixed boundaries would be difficult of recognition, or that they would involve uncertainties of civil and magisterial jurisdiction. If these boundaries are once properly recorded by traverse survey, pro-

jected from fixed points on both sides of the river (and the preparation of such a record is a simple matter), it is an easy matter to set out on the ground from that record any part of the boundary that may become the subject of the dispute. The record can be put into so simple a form that any ordinary patwári could make use of it in this way.

12. On the 3rd question the Financial Commissioner does not think it can be said that there is any subsisting agreement between the British Government and the Baháwalpur State. I am to invite attention to the account which Mr. Fryer himself gave of the matter in paragraph 5 of his letter No. 188, dated 25th March 1882, written by him as Deputy Commissioner of Dera Ghází Khan. In that letter Mr. Fryer appears to the Financial Commissioner to say that during the boundary disputes of 1872 there was an agreement of opinion between himself and the Superintendent of Baháwalpur, and that the Superintendent gave expression to that opinion by entries in the records of the Baháwalpur State. It is for any persons who claim rights under those entries to present those claims to the officers of the Baháwalpur State who have authority to decide them. It is no doubt in the power of the paramount State to insist that the Baháwalpur ruler shall see that these claims are decided on certain principles. We may say that our own subjects are so much interested that we cannot be indifferent to the manner in which these cases are decided; but that on the circumstances so far reported such interference by the Government of India is expedient, or that it would lead to good results, the Financial Commissioner is not convinced. If any new departure at all is to be made, it would be more profitable, in the interests equally of both Governments and of the alluvial land-owners, to depart from the main-stream rule and adopt a system of fixed boundaries; and in that event the British Government would no doubt afford every facility for the maintaining of a due supply of water in the Baháwalpur canals in cases in which changes in the main stream of the Indus might necessitate new head works.

13. This office copy of Mr. Fryer's letter above referred to is herewith submitted in original. The same opportunity is taken to return the original papers received with your letter No. 242 of 27th April 1887.

Copy of paras. 5 and 6 of a letter, No. 741, dated Sheikh Budín, 4th-6th July 1887, from Colonel E. L. OMMANNEY, Commissioner and Superintendent, Deraját Division, to the Senior Secretary to the Financial Commissioner, Punjab.

The demarcation of village estates throughout the Indus bed and of a permanent boundary between Dera Ghází Khan and Baháwalpur discussed.

5. In this correspondence the inconvenience, trouble, and hardship caused by the present uncertain manner of determining the boundary between British territory and the Baháwalpur State are set forth. A perusal of the report sufficiently shows how intricate and needlessly harassing each dispute may become. A great value has been given to land under the security of our rule, and its possession has been assured to the people. If there is a practicable remedy, it is unjust that men should be deprived of their possessions simply because a fickle river like the Indus washes away their land and throws it up in the jurisdiction of a State that does not recognize any private property in such alluvial tracts. The remedy is, however, practicable. The Indus above Dera Ghází Khan has been mapped, so that the boundaries of all estates can easily be traced and the proprietor without difficulty can take possession of his land on its re-appearance. Apparently it is equally feasible to have the village boundaries of Dera Ghází Khan and the Baháwalpur State mapped throughout the river-bed between the two territories, and at the same time a permanent boundary between the two jurisdictions fixed. Between districts in the Punjab it may become necessary at times to transfer estates from one district to another under certain conditions of the action of the river, but between the Baháwalpur State and British territory such transfers would be inexpedient. The territorial boundary therefore should be permanent when once fixed. Such a demarcation would once for all settle troublesome disputes of the kind under report, and would for ever settle the limits of the Baháwalpur territory, which promises under the western tendency of the river to indefinitely encroach on the Dera Ghází Khan district. Up to date considerable tracts of land have thus been lost. Supposing the river ever made a set to the east, the Baháwalpur State in a similar way would be protected by the proposed fixed boundary. The very serious political evil of any diminution of the valuable alluvial lands of the Mazári tribe is prominently noticed, and it is impossible to underrate the importance of this aspect of the question. The original Kacha Chauhán decision of 1860 and the further settlement of cases in 1872 have, so far as the particular lands are concerned, saved British territory and assured possession to the original land-holders; but to secure their and Government interest for ever these arrangements must not only be pronounced permanent, but the boundary, when the river

still represents it, must be permanently surveyed and laid down, that is, there must be one continuous boundary line secure from any future change by the action of the river. As the boundary has, if held to be permanent, been so far demarcated, there is apparently no difficulty in completing it.

Question of proprietory rights in lands transferred to Baháwalpur side of the river.

6. The general question alluded to of proprietory rights in lands thrown up on the Baháwalpur side by alluvion does not, I think, admit of a solution in favor of British subjects. Under such circumstances the Baháwalpur State appears to act within its rights by its own custom of appropriating such lands to the State. Where lands are transferred in an identifiable form, not only political jurisdiction but private property remains unaltered.

In the particular case of the villagers of Dherwáli, whose lands have been transferred to the Baháwalpur State, referred for favorable consideration in this office No. $\frac{173}{2275}$, dated 19th May 1882, the question is a complicated one. The Deputy Commissioner in that correspondence noted the following agreement come to in 1872, according to which he held that the villagers should be allowed to get their land:—"As the boundary lines between the Baháwalpur State and the British Government will be soon demarcated, it has been agreed that in future the boundaries will be in accordance with the boundary map, without reference to the estate to which the lands belong, that is to say, the rights of owners of lands shall not be affected either by alluvion or avulsion. Although the State may change, the proprietorship of the land will not be changed. The boundary maps will prove possession when the river goes down."

At that time, 1872, the demarcation of the lands in dispute did not lay down a continuous boundary: only the boundaries of those particular tracts were determined, so that this vernacular order could only have applied to such tracts; and as those had been decided to belong to the territory to which they had been originally attached and, as noted in paragraph 4, considered to be so permanently fixed, it is not clearly understood how and under what circumstances this order would be applicable.

The fixed boundary or war-par custom did not prevail in this part of the Indus, and could not have done so with opposing clans on the opposite banks; and Regulation XI of 1825 did not bind Baháwalpur to allow land-owners to follow their lands to that side of the river when transferred in a recognizable shape, seeing that the deep stream was the boundary till the Kacha Chauhán decision of 1860.

If the Dherwáli lands were identifiable, it was a mistake of the Dera Ghází Khan authorities to have allowed them to pass to Baháwalpur. That having been done, there appears to be no way of enforcing the land being restored to the villagers; possibly on the demarcation of boundaries some adjustment might be effected by compromise.

Copy of para. 8 of a letter, No. 414, dated 23rd June 1887, from M. L. DAMES, Esquire, Deputy Commissioner, Dera Ghází Khan, to the Commissioner and Superintendent, Deraját Division.

8. It is necessary, however, to bring to the notice of Government the numerous defects and inconveniences attending the present system of determining the boundary between British territory and the Baháwalpur State—defects which are not confined to this part of the boundary, but affect also the Mooltan and Muzaffargarh districts, as appears from the correspondence between the Deputy Commissioner of Mooltan and the Commissioner of Lahore, forwarded to me for opinion under cover of your No. 255* of 31st May 1887. It is admitted that the present rule is unsatisfactory, and the Deputy Commissioner of Mooltan recommends the adoption of one of two courses, either—

* Financial Commissioner's No. 3129 of 21st May 1887.

(1) that the deep stream should be declared to be the boundary throughout, the present rule as to avulsion being rescinded; or

(2) that a permanent boundary should be surveyed and laid down, which should be entirely unaffected by variations in the course of the river.

The Deputy Commissioner of Mooltan is in favor of the deep-stream boundary, and this is also advocated by the Baháwalpur authorities, who object to a permanent boundary on the ground that the westward tendency of the rivers would deprive them of their canal heads.

It is possible that on the Sutlej the deep-stream rule may be preferable, but on the Indus I am convinced that its effects would be disastrous: simplicity of system and saving of trouble to the Revenue authorities would be attained at the cost of the people. The present system is hard to work: it gives rise to numerous disputes which are by no means easy to settle in a satisfactory manner, but it does at least secure to the people of this district that their land shall not be taken from them when it is capable of identification, and there can be no doubt that it was the recognition of this fact by Government which led to the application of the avulsion rule to Kacha Chauhán in 1860, and its general extension in 1872. It is impossible to guess how far the present westerly tendency of the Indus may go, but there seems every possibility that the whole of the alluvial lands of the district from Mithánkot southward may ultimately be on the left bank of the river. This would include, besides many important villages such as Bhágsar, Shagarh, Bhangála, &c., the whole of the alluvial lands of the Mazári tribes, the only part of their territory that has any value.

Under the deep-stream rule the whole of this would become Baháwalpur territory, and the rights of the Mazáris and other proprietors would be ignored. The southern part of the Rájánpur tahsíl would be reduced to a strip of barren territory between the river and the hills precariously irrigated by hill torrents. Under the present rule things cannot go so far, but even now, the case of Mauza Dherwáli and others shows what mischief can be done.

The insecurity of all landed property, which is bad enough at present, would be greatly aggravated were the deep-stream rule in force.

I need not do more than allude to the loss of revenue to Government which necessarily accompanies a loss of territory. It is advisable that this should be reduced to a minimum.

The second alternative proposed is that the whole river-bed should be surveyed and a permanent boundary laid down.

The present boundary might be taken as a basis, and this once thoroughly surveyed and mapped, there could never be any serious difficulty in marking it out. Certainly it would be nothing like so difficult to work as the present system. It would secure each State in the possession of what it now holds, and would give land-owners a security which they have not had for many years. I take it for granted that it is not the object of either State to gain perpetual accessions of territory at the expense of its neighbour, but it is what would happen under the deep-stream rule, the simplicity of which is attained only by the continuous transfer of British territory to the Baháwalpur State. The objection raised regarding the loss of river frontage and the consequent neccessity of pushing canal heads through British territory, if a permanent boundary is laid down, is no doubt deserving of consideration. This will certainly happen should the present westerly tendency of the Indus continue. But it would surely be possible to lay down rules which would facilitate the construction of canal heads by the Baháwalpur authorities through British territory without trouble or inconvenience to them. This might well be made a special condition, considering the advantage this district would derive from a permanent boundary. It is not to be supposed that the authorities of this district would throw any obstacles in the way of the construction of such works. This is, I believe, the only argument that has been brought forward against a permanent boundary, and it does not seem in any way equal in importance to the injury caused to this district by the perpetual loss of its alluvial lands, and to its inhabitants by the destruction of their proprietory rights.

Under the deep-stream rule the whole of the advantages would accrue to the Baháwalpur State, and the whole loss would come upon this district.

On the grounds above stated I consider that the introduction of a permanent boundary would be the most satisfactory solution of the question, and the fairest to all parties. In this regard I would draw attention to paragraphs 29, 30, and 31 of Mr. Diack's report.

Copy of paras. 1 to 31 of a report on an enquiry held into the circumstances of certain disputes as to the boundary between the Dera Gházi Khan District and Baháwalpur State by Mr. A. H. Diack, Assistant Commissioner.

General rule for settleing the boundary between Dera Gházi Khan and Baháwalpur.

1. The boundary between the Dera Gházi Khan District and the Baháwalpur State was declared by the Supreme Government letter No. 3631 of 24th August 1860 to be the main stream of the river Indus, with the following reservation: "When the boundary river suddenly quits its bed and cuts for itself a new channel it ceases to be the boundary, and the Government which ruled the territory cut off by the change in the river continues to rule it."

Definition of a "chakar."

2. Portions of territory so cut off by a sudden change in the course of the main stream of the Indus are locally known as "chakars," and the test of a "chakar" is its remaining identifiable after the change in the course of the stream.

"Chakar" demarcated in 1860.

3. Up till 1860 the formation of "chakars" along the boundary between the district and the State had passed unnoticed, as the main stream of the Indus had been regarded as the boundary under all circumstances, and consequently when the new rule was applied in 1860 only one undoubted "chakar" was found to exist, namely, Kacha Chauhán, which, though situated on the left bank of the Indus, was declared to pertain to the Dera Gházi Khan district. This "chakar" had in fact formed the subject of the reference on which the order of the Supreme Government above quoted was issued.

"Chakars" demarcated in 1872.

4. Between 1860 and 1872 eight more "chakars" were formed as under, all of which were transferred by changes in the course of the Indus from its right or Dera Ghazi Khán bank to its left or Baháwalpur bank, and therefore continued to pertain to the British Government and the Dera Gházi Khan district:—

I.—Kacha Gambhír	V.—Kacha Miánwáli.
II.—Kacha Machi.	VI.—Kacha Paru Shah.
III.—Kacha Sabzáni.	VII.—Kacha Shahwáli.
IV.—Kacha Mohri.	VIII.—Kacha Jafirwáli and Bhaut.

5. The boundaries of these "chakars" were fixed in 1872 by Captain Grey, Political Superintendent of the Báháwalpur State, and Mr. Fryer, Settlement Officer of the Dera Ghási Khan district, and the demarcation effected by those officers was sanctioned by the Punjab Government (letter No. 1345 of 24th October 1872, from the Under-Secretary to Government, to the Secretary to the Financial Commissioner).

Provision made in 1872 for possible increase of "chakar" by alluvion.

6. Though the word "chakar" may be translated "island," it must be remembered that these "chakars" were not islands, but pieces of territory separated from the Dera Ghási Khan district by the river Indus and *joined* on to the territory of the Baháwalpur State, between which and each "chakar" the boundary lay entirely on dry land. In laying down the boundaries it was necessary to provide for the contingency of the river receding westwards from a "chakar" and throwing up land in front of it, in which case disputes were certain to arise as to what portion of such land should belong to the "chakar" and what portion to the Baháwalpur State. To prevent such disputes, if possible, Captain Grey and Mr. Fryer drew imaginary straight lines (known as *khatút-i-mahóz*), one to the north and one to the south of each "chakar," between fixed points on either bank of the river. Alluvial accretions *between* each such pair of lines were to pertain to the "chakar" north and south of which they were drawn, and *beyond* such lines to Baháwalpur.

Subsequent changes in boundaries laid down in 1872.

7. The boundaries thus laid down were surveyed and shown in the Revenue Survey maps of Dera Ghási Khan district and of the Baháwalpur State. In some cases, however, they were afterwards modified by officers deputed by the district and the State, and these modifications have not been shown in the Revenue Survey maps.

Formation of "chakar" in 1884.

8. In 1884 a piece of territory was transferred by avulsion from the left to the right bank of the Indus near Mithankot and was demarcated as a "chakar" belonging to the Baháwalpur State. This was the first Baháwalpur "chakar" that had been formed since 1860.

The present disputes.

9. The disputes into the circumstances of which I have been deputed to enquire referred, firstly, to the alleged formation of four new "chakars" —one on the left and three on the right bank of the river Indus; and, secondly, to the correct position of portions of the boundaries of Kacha Chauhán and of seven out of the eight "chakars" demarcated in 1872. Munshi Ghulám Nabi Khán, Bahádur, Finance Minister of the Baháwalpur State, was associated with me for the purpose of making the enquiry.

General questions.

10. Before relating in detail the circumstances of each dispute it will be expedient to discuss two important abstract questions, the rulings on which will affect all the "chakars" now in existence, three of them immediately, and the rest of them almost certainly in course of time. On these questions the Finance Minister of Baháwalpur and I found it impossible to come to an agreement; nor had we power to settle them, as both had been referred by Mr. Fryer, Deputy Commissioner of Dera Ghási Khan, for the orders of Government in connection with disputes as to Kacha Mohri (and Kacha Çhauhán) and Mauzah Dherwáli (letters No. 130 of 16th February 1883 and No. 188 of 25th March 1882, from the Deputy Commissioner, Dera Ghási Khan, to the Commissioner and Superintendent of the Deraját).

I.—Permanency of the boundaries of "chakar."

Contention for the Dera Ghazi Khan district.

11. The first of these questions relates to the degree of permanency possessed by the boundary between a "chakar" and the foreign State on whose bank of the river it is situated. It must be remembered that such a boundary is in every case a line of pillars lying entirely on dry land; and the wording of the Supreme Government ruling is as given in paragraph 1 above, namely, that under the circumstances of the formation of a "chakar" the boundary river "*ceases to be the boundary*." It is contended on behalf of the Dera Ghási Khan district that the dry land boundary thus substituted for the river is permanent, irrespective of shiftings and changings of the river; and on behalf of the Baháwalpur State, that it is liable under certain circumstances to be abolished and replaced by the variable boundary constituted by the main stream.

Circumstances under which the question arises.

12. The circumstances under which this question is raised are as follows:—The river by gradually cutting into a "chakar" erodes the whole or part of it up to the boundary between it and the foreign State. The river then recedes again, throwing up the "chakar" or portion of the "chakar" which it has eroded in the form of an unidentifiable alluvial accretion. If a *portion* only of the "chakar" has been eroded up to the dry land boundary, the rest of the "chakar" remaining intact, then is such portion when re-exposed by the river in an unidentifiable form an alluvial accretion to the "chakar" or to the foreign State? If the *whole* of the "chakar" is eroded and then thrown up again in such a state as not to be capable of identification, then is it an alluvial accretion to the foreign State and does the former boundary become extinct, or is that boundary a permanent one, and does the "chakar" when thus restored in its former position continue to pertain to the State to which it formerly belonged?

13. In my opinion the two cases—the erosion and subsequent alluvion of the whole and the erosion and subsequent alluvion of the part—are identical. The arrangement come to by Captain Grey and Mr. Fryer in 1872, however, provided for the case of the erosion of a part, but not for that of the whole of a "chakar." Allusion has been made in paragraph 6 to the imaginary straight lines or *khatút-i-maház* drawn to the north and south of each "chakar" by the abovenamed officers to limit alluvial accretions thereto. As all alluvial accretions between each pair of imaginary straight lines were to pertain to the "chakar" in connection with which the lines were drawn, it followed that a portion of a "chakar" eroded up to the boundary of the foreign State would when re-alluviated still pertain to the "chakar." According to the vernacular order, however, this rule was only to apply "during the existence of the 'chakar,'" and it therefore remained an open question whether the same rule would apply in the case of the erosion and subsequent re-alluvion of the whole "chakar."

Partial decision of the question in 1872 in favor of the Dera Gházi Khan district.

14. By the authorities of the Baháwalpur State it is argued that the two cases are identical, and that the above rule was opposed to the principles of riverain law. It has, however, been accepted by them in its partial application, as having been agreed to by their representative in 1872 and sanctioned by the Government of the Punjab. The authorities of the State, however, object to its being applied to any but the "chakars" demarcated in 1872, and hold that even in their case it does not operate when a "chakar" has been entirely eroded and then re-alluviated in its former position. They assert that when the river encroaches so as to touch the boundary between the "chakar" and the foreign State at any point, then the main stream again becomes the boundary there, and in the event of its again receding alluvial accretions at that point are accretions to the foreign State.

Contention of the Baháwalpur State.

15. To this I would reply that the transfer by avulsion of a piece of territory pertaining to a certain State to the opposite bank of a river forming the boundary between that State and another gives the former State in respect of the land so transferred a *status* on the opposite bank exactly similar to that of the latter State in respect of its own lands situated on the said bank. The land so transferred, the "chakar," may be regarded as one village, and the land of the foreign State as another village, the boundaries of which run. In case of diluvion and subsequent re-alluvion each village would take up to its own boundary and no further; neither would be entitled to regard re-alluviated land of the other village as an accretion to itself.

Reply thereto.

16. The question is in reality briefly this—was the meaning of the Supreme Government ruling of 1860, that the boundary substituted for the main stream of a boundary river which had quitted its bed and cut out a new channel for itself should be a permanent boundary, irrespective of subsequent shiftings and changings of the river?

The main question briefly stated.

17. If it is held that the boundary is a permanent one, then the principle of Captain Grey and Mr. Fryer's decision of 1872 will be extended to all "chakars" formed before or after that year, both in the case of *partial* and in that of *entire* erosion and re-alluvion. If, on the other hand, it be decided that the boundary is liable to be again replaced by the river, then it will be necessary to decide further (1) whether the decision of the above officers shall continue to be upheld with reference to the "chakars" demarcated by them; and (2) if so, whether its principle may be applied to the case of *partial* erosion and re-alluvion of other "chakars" not demarcated by them, though it may not be held applicable to the *entire* erosion and re-alluvion of a "chakar."

Minor questions springing from the main question.

II.—*Proprietory Rights.*

18. The second of the two general questions that have been raised refers, not to the relations between the British Government and the Baháwalpur State, but to the rights of proprietors to follow their land when it is transferred to the opposite bank of the Indus under such circumstances that it becomes a portion of the foreign State,—that is, when it is gradually transferred by alluvion and is not capable of identification.

The main question stated.

19. Bengal Regulation XI of 1825 lays down that a proprietor may not follow his land to the opposite bank of a river if it is thrown up there in an unidentifiable form, unless there is a clear and definite custom which entitles him to do so. The claim of the Dera Gházi Khan landowners to follow their land when transferred by alluvion to the Baháwalpur bank of the Indus is based, not directly on custom, but on an order issued by the officers who effected the demarcation of 1872. The order (the original of which is in vernacular) runs as follows:—"As the boundary lines between Baháwalpur and the British Government will soon be demarcated, it has been agreed that in future the boundaries will be in accordance with the boundary maps, without reference to the State to which the lands belong, that is to say, the rights of owners of land shall not be affected either by alluvion or avulsion: although the State may change, the proprietorship of the land will not be changed."

Claim of the Dera Gházi Khan proprietors founded not directly on law or custom, but on the Settlement of 1872.

Terms of the settlement of 1872.

Grounds of the Baháwalpur State's refusal to abide by the Settlement.

20. Although this order was signed by their representative in 1872, the authorities of the Baháwalpur State now refuse to give effect to it, on the following grounds: (1) it is not in accordance with riverain custom; (2) it is opposed to the provisions of Regulation XI of 1825; (3) it was not sanctioned by Government; (4) it is not a suitable provision for boundaries in riverain lands.

It is doubtful whether the Settlement is founded on custom prevailing on the Baháwalpur border.

21. The custom prevailing among proprietors holding land along the Baháwalpur-Dera Gházi Khan boundary has apparently never been ascertained. No administration papers or statements of custom have been prepared in the Baháwalpur State. The *riwajnamah* of the Rájanpur tahsíl of the Dera Gházi Khan district describes the riverain custom as allowing a proprietor to follow his land to the opposite bank under all circumstances; but it is doubtful whether this applies to relations with Baháwalpur, and it probably refers to transfers of land between this district and Muzaffargarh only. It is certainly unlikely that in former times, when the inhabitants of the opposite banks of the river were constantly at war, proprietors were in the habit of following their land to the Baháwalpur side of the river. But, if no custom in accordance with the terms of the order of 1872 has been proved to exist as to transfers of land on the Baháwalpur border, still the principle of that order agrees with the spirit of riverain custom all along the course of the Indus in the Punjab except on the Baháwalpur border. In the Bannu, Dera Ismail Khan, Muzaffargarh, and Dera Gházi Khan districts all the land is mapped—even that in the bed of the river, every piece of land has its owner, and when any piece of land emerges from the river no matter on which bank, its proprietor is suffered to take possession of it. This is precisely the meaning of the order of 1872, which is therefore in accordance with Indus riverain custom as it prevails in all the Punjab districts which are affected to any great extent by that river.

But the principle of the Settlement is in accordance with Indus riverain custom elsewhere.

Is the Settlement therefore valid?

22. The question is therefore whether such custom may be taken to govern transfers of land along the Baháwalpur border, and whether the order of 1872 is valid as being in accordance therewith.

Objections that the Settlement is opposed to the provisions of Regulation XI of 1825, and was not sanctioned by Government.

23. The second and third of the objections taken by the Baháwalpur authorities are undoubtedly correct. The order or agreement is not in accordance with the general provisions of Regulation XI of 1825, and it was not sanctioned by Government; but by the Regulation the order is binding if it is founded on custom. Mr. Fryer unfortunately did not think it necessary to report that part of his arrangement with Captain Grey for sanction; indeed it is doubtful whether the sanction of Government was necessary to make the order binding on the Baháwalpur State: the sanction of the Political Superintendent of the State would appear to be sufficient.

But the Baháwalpur State does not observe the law in dealing with its own proprietors, and so far as the State itself is a proprietor is bound by the terms of the settlement.

24. The Bengal Regulation, which the authorities of the Baháwalpur State wish to follow in preference to the order of 1872, defines the law as between proprietor and proprietor. In accordance with it a proprietor on the Baháwalpur bank of the river Indus would take possession of all land thrown up by the river in front of his own. But in most cases the Baháwalpur proprietors are, I believe, not allowed to do so; the land so thrown up is appropriated by the State and given on lease to tenants. In contending for the principle of the Regulation the State pretends to take the part of its subject proprietors; but, if in dealing with them the Baháwalpur State does not carry out the provisions of the Regulation, it is scarcely fair that the State should profit by these provisions against the Dera Gházi Khan landowners. So far as the State is itself a proprietor, it is surely bound by the order or agreement signed by its plenipotentiary in 1872, and is therefore not entitled to appropriate the proprietory rights in land belonging to Dera Gházi Khan landowners which has been transferred to its side of the river.

Advantages of the schemes of the Regulation and of the Settlement of 1872 compared.

25. The fourth objection taken by the authorities of the Baháwalpur State to the arrangement of 1872 is that, as compared with it, the scheme of the Regulation is easier to work upon. This objection has of course no weight if the agreement of 1872 is decided to be binding. In my opinion, however, the system proposed in 1872 is much more suited to the circumstances of the river Indus than that of the Regulation, which was originally enacted purely with reference to the rivers of Lower Bengal. The Indus yearly changes its course to such an extent that inconceivable loss would be caused to proprietors if their land were to pass from them simply because it was transferred to the opposite bank of the river in an unidentifiable state. No better proof of the inapplicability of the Regulation to the circumstances of the river Indus can be sought for than that the inhabitants of the Punjab districts lying along its banks have adopted voluntarily the custom above described, which is embodied in the agreement of 1872. The difference between that custom and the system of the Regulation is that the former works purely by maps, and by the latter the ownership of land depends entirely on whether, on transfer to the opposite bank, it remains capable of identification. If the maps are correct and the village patwárís efficient surveyors, there is absolutely no difficulty in working on the former system. It is true that

the present inquiry has been much complicated by the difficulty of working from maps, but it would not have been so had those maps been carefully prepared and preserved. On the other hand, the present inquiry has also shown how difficult it is to determine whether land is capable of identification or not. The first year after being exposed by the river it is generally unculturable, and therefore the proprietors and the revenue officials do not examine it carefully to ascertain whether there are any bushes, tree stumps, or vestiges of buildings such as would render it identifiable, and claims made to it afterwards are extremely difficult to decide. The Samukha, Kachi Khan Muhammad, Ihsanpur, and Dherwáli disputes are all instances of this. Moreover the principle of the rule appears to be illogical and inequitable. The position of riverain land never changes relatively to the position of other land, but merely relatively to the main stream of the river : its position in the map remains unaltered. Why should proprietory rights to it be affected by the river flowing on one side of it or on the other ? Such a rule is intelligible in a wild state of society when the States or proprietors on the opposite banks are at constant feud, but not in an advanced state of civilization like the present. But the further provision that, if the land remains capable of identification, then on whichever side of it the river flows the proprietory rights remain unaffected, appears to be based on no logical ground whatever and unsuited to the circumstances either of former times or of the present. A proprietor at feud with the inhabitants of the opposite bank would not follow his land thither even if it were identifiable.

Points for decision reviewed.

26. The points for decision in connection with the question as to proprietory right are then briefly (1) whether the agreement of 1872 is binding as being in accordance with the riverain custom prevailing all along the course of the Indus throughout the Punjab, except in the Baháwalpur border, where it has not been ascertained? (2) If not, whether the agreement is binding on the Baháwalpur State in respect of alluvial land which the State itself appropriates instead of allowing the proprietor, its own subject, to do so, who alone has the right according to the Regulation? (3) (Raised by the authorities of the State). Whether the agreement of 1872 should or should not be preferred to the provisions of Regulation XI of 1825, as being more or less easy to work upon? (4) Whether the settlement is void for want of sanction?

Difficulty of enforcing the settlement of 1872, supposing it to be binding.

27. If it be decided that the agreement of 1872 is binding on the Baháwalpur State, and that the landowners of Dera Gházi Khan whose land has become a portion of the State, remain proprietors of the land as subjects of the State, there will still remain a more difficult question, namely, how are the terms of the agreement to be enforced ? At present Dera Gházi Khan proprietors claiming their land from the Baháwalpur State are compelled to institute a civil suit in one of the courts of the State against the State as defendant. The expense of such proceedings, the uncertainty of the result, and the impossibility of appealing to any court beyond the limits of the State deter them at present from prosecuting their claims, and would probably continue to deter them even if the general question were decided in their favour. They have the further uncertainty, too, as to whether the amount of revenue that may be assessed on their land by the Baháwalpur State will leave them sufficient profit to induce them to cultivate.

Political complications likely to arise in consequence of the set of the Indus towards the west, unless the settlement is upheld.

28. At the same time the loss caused to proprietors of the Dera Ghàzi Khan district by the steady set of the river towards the west is assuming gigantic proportions and calls for measures to be taken to prevent it. The four villages of Mithánkot, Mad Maulavi, Mad Gola, and Mad Pallia alone have since Settlement lost 2,811 acres, which have been gained by Baháwalpur. Sheets Nos. 2 and 3 of the accompanying map, when compared with the corresponding sheets of the 4-inch Revenue Survey map, show the large area of land that has been lost by Bangala, Mad Ṣaindad, Dherwáli, and neighbouring villages. If decision of the question of the permanency of the boundary of a "chakar" is given against the Dera Gházi Khan district, then the whole of Kacha Mohri and large portions of Kacha Chauhán will become attached to Baháwalpur. Of the above land only in a few instances have the owners been allowed to become even tenants holding from the Baháwalpur State as proprietors. The owners of a considerable area of the land transferred to Baháwalpur are Biluchís of the Mazári tribe, a warlike race who won their land by the sword and cannot understand why it should now be taken from them and given to a physically inferior race simply because of changes in the course of the river. There has already been more than one collision between them and subjects of Baháwalpur, and it is to be feared that if their land be finally made over to the latter very serious disturbances may occur. Even if they make no attempt to recover their land forcibly, the result of a large number of men of this class being thrown on the world without any means of subsistence cannot be contemplated without anxiety.

These difficulties and complications may be avoided by fixing a permanent boundary throughout between Bahawalpur and the Dera Gházi Khan district.

29 If it be decided that the boundary between a "chakar" and the foreign State on which it borders is a permanent one, there is a possible solution of the difficulty. There are now twelve "chakars" lying at intervals along the boundary between Baháwalpur and the Dera Ghàzi Khan district. If the boundaries of those "chakars" are permanent, then it would be but a slight extension of the principle to lay down a permanent boundary in the intervals between them also, say

the middle of the present main stream of the river, to represent the boundary between the British Government and the Baháwalpur State, as well as between proprietors. This measure would not be opposed to the rule stated in the Supreme Government letter of 1860, in paragraph 3 of which it was laid down that the main stream of the river should not, as a fixed rule, be held to form the boundary, but that in each case of change in the course of the river a separate reference should be made to Government. It has been shown that the fixing of a permanent boundary is in accordance with the custom followed by proprietors along the river Indus; and, though the rule for fixing the boundary between sovereigns does not invariably follow, it is usually based upon the custom of proprietors, which being the result of centuries of experience is almost certain to be the best method of settlement.

A permanent boundary would be a benefit to both States ultimately, though to all appearance only the British Government would gain by it at present.

30. A permanent boundary would undoubtedly be of advantage to the British Government, in that it would set a limit to the loss of territory by Government and the acquisition of the same by Baháwalpur; and for the same reason the authorities of the State are averse to it. They also object that it would entail loss of river frontage to them, and, therefore, of supply for their canals. But against their loss must be put the loss of territory and of revenue that the British Government has already suffered, and also what it may lose in the future, as well as the political complications that may result if the Mazári tribe lose the riverain land by which mainly they are supported. As it is always uncertain what course the river may pursue, neither State can at present assert that it would be a loser by the laying down of a fixed boundary, while both would gain in certainty of tenure and the prevention of disputes. With a carefully surveyed and mapped boundary all disputes could be settled easily by the local revenue officers, or at any rate by the occasional deputation of a skilled surveyor.

The present system is unpopular on both sides, and it is impossible to make the main stream the boundary throughout.

31. The present system is objected to both by the people and officers of the district and by those of the Baháwalpur State as being exceedingly complicated. The latter recommend a return to the "Had Sikandri," or deep-stream boundary. The large number of "chakars," however, held by the British Government on the left bank of the Indus renders a return to the latter system impracticable. The fixing of a permanent boundary has also the advantages of eliminating the element of chance, of giving security of tenure to landowners, and causing loss to neither State. In the case of British districts moreover it has worked easily and satisfactorily, and there is no reason why it should not do so between the Dera Gházi Khan district and an advanced Native State like Baháwalpur.

Copy of a letter, No. 188, dated Dera Gházi Khan, 25th March 1882, from F. W. FRYER, Esquire, Deputy Commissioner, Dera Ghazi Khan, to the Commissioner and Superintendent, Deraját Division.

I HAVE the honor to forward for orders a letter, No. 266, dated the 8th October last,* from Mr. King, Assistant Commissioner, Rájanpur, regarding a boundary dispute between the British Government and the Baháwalpur State.

* Not reprinted.

The lands in dispute were formerly included in the boundaries of Mauza Dherwál is which formed part of the Rájanpur sub-division of this district; but in 1877 Major Beckett, Assistant Political Agent, Baháwalpur, and Fazal Dín, Tahsíldár of Rájanpur, decided that the lands belonged to the Baháwalpur State. Rái Chiman Lál, Extra Assistant Commissioner, in 1881, considered that the decision come to in 1877 was wrong, as parts of the lands were capable of identification, and therefore the lands should not have been considered to form part of the Baháwalpur State. I am of the same opinion as Rai Chiman Lál on this point, but I agree with Mr. King that, as the decision of 1877 was accepted at the time, the question of jurisdiction cannot now be re-opened. There remains, however, the question of possession of the lands, and on this I am at issue with the Baháwalpur authorities.

2. In February 1872, when I, as Settlement Officer of this district, was deputed to lay down the boundary between this district and Baháwalpur, amongst other conditions we agreed to was the following, which I translate from the vernacular:—"As the boundary lines between Baháwalpur and the British Government will soon be demarcated, it has been agreed that in future the boundaries will be in accordance with the boundary map without reference to the State to which the lands belong; that is to say, the rights of owners of lands shall not be affected either by alluvion or avulsion: although the State may change, the proprietorship of the land will not be changed. The boundary maps will prove possession when the river goes down."

3. The Baháwalpur authorities now, to my surprise, refuse to allow the Dherwáli zamíndárs to follow their lands. The Baháwalpur Mashir Mál urges that the decision of 1872 has never been acted upon in this respect. I know that it was acted upon with reference to Kacha Gambhir and also to Kacha Miánwáli by Captain Grey, and I distinctly recollect that Captain Grey himself said that there was a scarcity of cultivators in Baháwalpur, so that the State would be very glad to get zamíndárs from the district to cultivate any land of theirs that might be transferred to Baháwalpur. If the

rule has not always been followed, it is because zamíndárs of this district do not always care to cultivate lands in Baháwalpur, and *vice versá* ; but in this instance they do desire to do so, and I cannot understand why they should be prevented from occupying the land.

4. In the next place, the Mashir Mál cites two decisions of the Punjab Chief Court, No. 12 of 1870 and No. 15 of 1872, by which the original owners of land are only entitled to follow it if carried to the opposite side of the river, provided it be identifiable. Now in this case the land is identifiable, though I do not expect the Baháwalpur authorities to admit that it is so, because such an admission might, in their opinion, show that the Baháwalpur State had improperly claimed the land; but I maintain that, where an agreement has been come to between the two States, such as that come to between the British Government and the Baháwalpur State, the agreement ought to be followed; and it is no longer a question of ordinary law, but of specific agreement.

5. The Mashir Mál further urges that the orders of the British Government have not been given on this particular point, and on referring to the file I find that I did not ask for orders on this point in my No. 74, dated the 4th March 1872, to the Settlement Commissioner, reporting the decision come to on the Baháwalpur boundary question. Consequently the matter was not noticed in the Secretary to Financial Commissioner's No. 488, dated the 22nd May 1872, to the Secretary to Government, Punjab; nor in the Secretary to Government Punjab's No. 1345, dated the 24th October 1872, to the Secretary to Financial Commissioner. My reason for not asking the orders of Government upon this point was that, as the agreement was entered in the joint files of boundary decisions signed by Captain Grey and myself, and was notified to the zamíndárs, there was no necessity for referring it to Government. The point I was deputed to settle with Captain Grey was the boundary line between the British Government and Baháwalpur, and not the ownership of the land which might be found to belong to either State. The ownership of land was an incidental question, and was disposed of as a matter between the landowners, and not between the two States; and I never expected that a condition entered into by the Baháwalpur State would not be carried out, nor should I have been prepared to ask the Government to issue any orders upon the question. If it was not a matter which could be arranged between the landowners of the two States, with the consent of Captain Grey and myself, then it was a matter which had to be left to be governed by the ordinary law. Even by the ordinary law the zamíndárs of Mauza Dherwáli are in the right in this case, and whether the law applies or not, still the Baháwalpur authorities are, in my opinion, bound by Captain Grey's agreement.

No. 739, dated Lahore, 30th September 1887.

From—R. G. Thomson, Esquire, Senior Secretary to Financial Commissioner, Punjab,
To—The Junior Secretary to Government, Punjab.

Sub-head 41. File No. 6.

In continuation of my No. 52 C., dated 4th August 1887, I am directed to forward, in original, a further letter, No. 627, dated 25th idem, with its enclosure, from the Commissioner of the Lahore Division, regarding the boundary on the Sutlej between British and Baháwalpur territory.

No. 627, dated 25th August 1887.

From—C. M. Rivaz, Esquire, Offg. Commissioner and Superintendent, Lahore Division,
To—The Senior Secretary to Financial Commissioner, Punjab.

In continuation of Mr. Coldstream's letters Nos. 308 and 352 of the 7th and 26th May last, I have the honor to submit copy of a further reference from the Deputy Commissioner, Mooltan, No. 603 of the 16th instant, and its accompanying memorandum, urging the necessity of a return to the deep-stream rule for regulating the jurisdiction boundary on the Sutlej between British and Baháwalpur territory.

2. Under the present rule British or Baháwalpur jurisdiction, as the case may be, is preserved in respect of lands which are carried across the river by avulsion, or emerge on the other side in an identifiable form. Major Hutchinson's arguments in the correspondence which has passed on the subject against this rule are—(1) that it is a very troublesome one to work; (2) that it is difficult to maintain proper police and revenue arrangements in regard to lands lying across a large river; (3) that in this particular instance a river frontage is very desirable, since numerous canals are taken from the river on both the British and Baháwalpur sides. These objections have no doubt considerable force; but, on the other hand, it must be borne in mind that it is obviously a point to be aimed at that whatever rule regulates the jurisdiction between British territory and a Native State should be assimilated, as nearly as possible, to the local custom in the matter of proprietory claims between the landholders living on either side the river. Now I find, on referring to some correspondence on

this subject, which was printed as Punjab Government, Foreign Proceedings No. 31 for October 1876, that it was ascertained that in the Lower Sutlej the "wár-pár" custom was in force; that is, not only identifiable land is followed by the proprietors across the river, but also a proprietor is entitled to possession of land forming on the other side by gradual accretion, if he can show that the site on which such land has formed originally belonged to him. The avulsion rule of jurisdiction does not go quite as far as the "wár-pár" rule of proprietorship, but at all events it is much nearer it than the deep-stream rule would be. Were the deep-stream rule of jurisdiction restored, there would be no certainty that the Baháwalpur authorities would allow British subjects to retain possession of lands which were carried across the river in even an identifiable form. I have personal knowledge of a gross case of injustice under such circumstances which occurred at Kapurthala. Formerly, when the deep-stream was the recognized jurisdiction boundary, a large tract of cultivation was carried across the Sutlej by a change in the course of the river from the Ferozepore to the Kapurthala side. The Ferozepore proprietors were summarily dispossessed and the land was bestowed as a grant by the Rája of Kapurthala on one of his followers. There would be nothing to prevent the Baháwalpur authorities acting similarly at any time, should the deep stream be reverted to as the jurisdiction boundary.

3. The most satisfactory jurisdiction rule would doubtless be that which was suggested by the Settlement Commissioner in 1876 (see the correspondence above referred to), namely, to have fixed village boundaries in the river-bed. But it was found that there were difficulties in the way of making such a river survey, so the proposal was dropped. The question, therefore, now is between the avulsion and the deep-stream rules, and, considering the advantages and disadvantages of either system, I imagine that Government will not be prepared to revoke the decision which was passed in 1872 in favor of the former, and which, moreover, was in accordance with the orders on the subject issued by the Government of India in 1860.

4. But if the avulsion rule is maintained, it is very necessary that all the river changes coming under its operation should be duly determined and recorded year by year, a British and a Baháwalpur official meeting for such purpose as early as possible in each cold weather. It would seem that such annual inspections have been neglected in the Mooltan district, and it is naturally difficult to ascertain satisfactorily now, after the lapse of several years, how far the lands in dispute were carried across the river in an identifiable form or have been thrown up by gradual accretion. As Major Hutchinson is not satisfied that the cases have been properly dealt with by Rái Bhawáni Dás, the only thing will be to have them investigated again, on proper principles, as soon as the floods of the present season are over. As regards the ultimate decision of these river-boundary cases, both those at present pending and in future, I would suggest that where the British and Baháwalpur officers are agreed, and the Deputy Commissioner too concurs, no further reference need be required. But cases in which there is a difference of opinion between the investigating officers, or in which, even though the investigating officers are agreed, the Deputy Commissioner does not concur, should be reported to the Commissioner, whose decision might be final, unless he considered any such case required, for special reasons, to be referred to the Financial Commissioner.

No. 603, dated 16th August 1887.

From—Major J. B. Hutchinson, Deputy Commissioner, Mooltan,

To—The Commissioner and Superintendent, Lahore Division.

I have the honor to forward you a memo. written by me regarding the disputes on the Sutlej river between British territory and Baháwalpur. This is with reference to the correspondence ending with your No. 185, dated 26th May 1887.

2. The matter is one of great importance, and every year it is becoming more and more complicated. Personally, I see no help for it now but to go back to the deep-stream rule, accept matters as they exist at present, taking the deep-stream as the boundary now, and hereafter, if the avulsion rule must be adhered to, to order an officer every year to go along the banks and map out any land transferred by avulsion. If this is not done annually complications must arise: hitherto it has not been done.

3. I would solicit the favor of your obtaining early orders on the subject.

Memo.

I have inspected the files and examined the maps prepared by Rái Bhawáni Dás, Extra Assistant Commissioner, regarding the disputed ground on the Sutlej, and I am not in a position to consent to the arrangements proposed by him and the Baháwalpur State.

The rule is that the deep stream is the boundary, and will remain the boundary, except in cases where land is transferred by avulsion. Up to 1873 the rule was pure and simple, that the deep-stream was the boundary.

It was only on the issue of the order of the Government in 1873 that the avulsion rule came into force.

9. The case of the Kacha Chauhan Chakar is simple now that the principles described above have been laid down. Rakh Chauhan and Kacha Chauhan constituted one chakar, which was transferred to the Baháwalpur bank in 1859 and has never since been wholly eroded. The subsequent conversion of part of the chakar into a rakh did not make it two chakars: it was a single block left on the far side of the river by a change of the river's course at a particular time and then declared British, and was then one property. Moreover, Mr. Diack shows that bits of both the rakh and the village areas have survived. The Lieutenant-Governor accepts Mr. Diack's decision as regards this chakar throughout, including the relaid boundary on the high land.

10. The Lieutenant-Governor is unable to accept Mr. Diack's proposed decision in the Kacha Mohri dispute. This chakar has since its formation been wholly eroded, and therefore under the general rule above laid down the deep-stream boundary has been restored. Against this it is contended that as the Kacha Mohri Chakar when formed was continuous with the previously existing Kacha Chauhan Chakar, and as the mahāz lines drawn in 1872 were to the north of Kacha Chauhan and the south of Kacha Mohri, the whole tracts within those lines ought to be considered as one chakar, and that the deep-stream boundary ought not to be restored within those lines unless the whole of this continuous chakar were eroded. Sir James Lyall does not concur in this view. The maház lines were an invention of 1872. If they had been adopted in 1860, there would have been a maház line between Kacha Chauhan Chakar and the site where Kacha Mohri subsequently turned up shortly before 1872. The mere fact that such a line was not laid down in 1872 is no ground for a decision. It was not laid down because it did not seem wanted under existing circumstances. The fact remains that Chakar Mohri was a subsequent chakar and separate property and must stand by itself. Having been completely eroded, the territorial claim of the British State to it is annulled. In applying the test of complete or partial erosion each chakar must be dealt with separately, without any regard to the existence of other chakars belonging to the same State continuous with it.

11. * * * * * * * *

12. * * * * * * * *

13. Mr. Diack has raised the question of the right of proprietors to follow their land when it is transferred to the opposite bank of the Indus under such circumstances that it becomes a portion of the foreign State. He states that the claim of the Dera Ghàzi Khan landowners to follow their land when transferred by alluvion to the Baháwalpur bank of the Indus, is based not directly on custom, but on an order issued by the officers who effected the demarcation of 1872, and which it is sought to construe as an agreement binding the Baháwalpur State to secure the Dera Ghàzi Khan owners these rights in future. The Lieutenant-Governor, after full consideration of the arguments adduced, does not consider that any agreement in regard to proprietory right binding on Baháwalpur was come to, and he is therefore not prepared to address the authorities of the State with reference to the observance of that so-called agreement. Apart from a valid and binding agreement, the Dera Ghàzi Khan zamíndárs could only have a good claim to lands transferred to Baháwalpur by alluvion if the wár pár custom were in force on the Indus between Dera Ghàzi Khan and Baháwalpur, and this is not alleged. Sir James Lyall believes that so far as the zamíndárs' original notions of right are concerned and their practice when they acted honestly and the States did not interfere (which they often did when it suited their purpose), the wár pár was the rule all down the Sutlej and Panchnad. On the Indus between Dera Ghàzi Khan and Baháwalpur the old general rule of practice was, he thinks, the hadd Sikandari (or deep-stream, pure and simple), owing to hostile relations of the people of the different banks, but this changed after British rule came in; and now, he thinks, proprietory right must follow the rule of jurisdiction on our side. We cannot legislate for the other side.

14. As to the Dherwáli case, Sir James Lyall agrees in the remarks made by Colonel Ommanny. The dispute as to ownership really calls in question the merits of the decision which recognized the lands as transferred to Baháwalpur. No interference on the part of Government is practicable.

15. In paragraph 5 of Mr. Thomson's No. 52 C., dated 4th August 1887, the opinion of the Financial Commissioner was expressed that between two States such as Baháwalpur and British India, the only possible boundary rules which can prove satisfactory are either the deep-stream rule, pure and simple, or the rule of fixed boundary lines. It must be admitted that the present system is in many respects unsatisfactory and difficult to work. Sir James Lyall is of opinion that it is not on the whole advisable to propose reverting to the deep-stream rule, pure and simple, and he further holds it not probable that such a proposal would be accepted by the Government of India or the Secretary of State, if made, for the present orders apply to many other States besides Baháwalpur. Reverting to this rule would moreover probably cause loss of revenue to the British Government and of property to our zamíndárs, for even if the Baháwalpur State agreed to respect our zamíndárs' rights, which the Darbár would be very shy of doing as opening a door to internal interference, it would not be feasible to really enforce compliance owing to the many doubts as to facts which arise in such cases.

16. Sir James Lyall would be more willing to propose to the Government of India the adoption of the system of fixed boundaries. This system would require the making of a traverse survey as explained by Colonel Ware. The cost of this would have to be shared by the two Governments. The system would, in the Lieutenant Governor's opinion, be easy enough to work and would be fair to both States; it would save much trouble to the two States and to their zamíndárs. It might perhaps be a condition of the arrangement made that each State should give new canal heads through its lands to the other State, whenever wanted, paying compensation to its own zamíndárs according to its own rules.

17. I am to ask that the Financial Commissioner will communicate these orders to the Commissioners of Lahore and the Deraját, and will direct the Commissioner of Lahore to inform the Baháwalpur Darbár of the orders passed in paragraphs 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this letter, and to arrange with the Baháwalpur authorities, as may seem to him best, to avoid the reported danger of a riot about possession of the lands referred to in paragraph 12 of this letter. The Commissioner of Lahore will also explain to the Baháwalpur Darbár that the Lieutenant-Governor finds it impossible to propose a reversion to the deep-stream rule, pure and simple, and will lay before them Sir James Lyall's views as to the adoption of the fixed boundary system and will ask for an expression of their views on the subject.

18. * * * * * * * *

No. 769, dated Lahore, 7th November 1889.

From—J. M. Douie, Esquire, Senior Secretary to Financial Commissioner, Punjab,

To—The Offg. Secretary to Government, Punjab.

Financial Commissioner's No. 3858, dated 21st June. Commissioner of Lahore's No. 752, dated 5th October, and its enclosures.

With reference to paragraph 17 of your No. 245, dated 9th May, on the subject of boundary disputes between Baháwalpur and British territory, I am directed to forward copies of the correspondence noted in the margin.

2. The Financial Commissioner considers that it is very important in this case to keep quite distinct the questions—

(1) As to the jurisdiction boundary between the British Government and the Baháwalpur State.

(2) As to the rights of ownership in land affected by river action.

The first depends upon treaty engagements between the two Governments. The second depends upon the action of the Civil Courts having jurisdiction. The jurisdiction boundary needs to be first determined before the question of proprietory right can be dealt with; for there is no provision of law, as in the case of disputed jurisdiction between two British Courts, which admits of either Court deciding the case.

3. Mr. Young understands that there is no intention of discussing with the Baháwalpur State the question of proprietory status, or of laying down any principles in regard to its decision. The decision will depend in each case in which proprietory claim is involved on the facts of such case, on the custom established, on the precedents which may be forthcoming, and will be passed

by the Court having jurisdiction. The Financial Commissionor believes that this view has always been maintained in the orders of Government on this and similar cases. He is therefore unable to agree with Mr. Rivaz in his view that "it would be necessary to authoritatively prescribe, in fixing the boundary once for all along the river between British and Baháwalpur territory, that such boundary would regulate proprietory rights, as well as jurisdiction in future on the British side." The executive Government has no power, even it it were desirable to make such a declaration.

4. But as a matter of fact it seems likely that the adoption of a fixed boundary for jurisdiction purposes will bring about a cessation of the frequent changes in proprietory right which now occur; for, in the first place, it is probable that there is a strong tendency among the people to hold to the locality on which their lands have been situated; and, in the second, neither set of proprietors is likely to resort freely to the courts of the foreign Government for pressing their claims. Partly for this reason, and partly because the arrangement is simpler, and steers clear of the intricate questions involved in any other system except the deep-stream rule, pure and simple, Mr. Young is in favour of a fixed boundary for jurisdiction purposes.

5. He understands the first and second of the questions put by the Baháwalpur State to refer to the question of the boundary of jurisdiction between British and Baháwalpur territory, while the third refers to the question of proprietory right. To these questions he thinks the following answers should be given :—

(1) The fixed boundary between British and Baháwalpur territory will be laid down on the basis of existing status at the time of the change of system, and in case of any doubt as to this status it will be determined with reference to the arrangements in force up to that time (as described in paragraph 3 of your letter under reply).

(2) The chakars on both sides of the river will be treated, for purposes of jurisdiction, in accordance with the above principle, the decisions conveyed in the Punjab Government letter above quoted, which are based upon the same principles, being maintained.

(3) When the fixed boundary is laid down the existing proprietory possession will not be interfered with. The courts on either side will have jurisdiction in regard to disputed claims for proprietory right. The question of proprietory right will not necessarily follow the jurisdiction, but each case will depend upon the circumstances. There is no agreement between the British Government and the Baháwalpur State binding the courts in either case to adopt any fixed rule, and their decisions would be based upon the facts, upon custom, and upon precedent.

In event of the proprietors of one side obtaining proprietory right in an area on the other side of the boundary, they would pay land revenue to the Government in whose jurisdiction the land lies.

No. 3853, dated 21st June 1889.

From—The Junior Secretary to Financial Commissioner, Punjab,

To—The Commissoner and Superintendent, Lahore Division.

COPY of Punjab Government No. 245, dated 9th May 1889, forwarded for information and guidance, with reference to correspondence ending with his No. 236, dated 23rd March last, and for compliance with the orders contained in paragraph 17 of the Government letter.

No. 752, dated 5th October 1889.

From—C. M. RIVAZ, Esquire, Commissioner and Superintendent, Lahore Division,

To—The Senior Secretary to Financial Commissioner, Punjab.

WITH reference to your No. 3858 of the 21st June last, I have the honor to forward a murásila (with translation) containing the reply of the Baháwalpur Darbár regarding the proposal contained in paragraph 16 of the Government letter to your address, No. 245 of the 9th May, for the adoption of a system of fixed boundaries between

British and Baháwalpur territory on the Sutlej and Indus. As regards the enquiries which the Darbár make, while accepting the principle of such new system, as to what basis is intended to be taken for determining once for all the boundary lines in question, and whether such boundaries will remain fixed in future as regards jurisdiction only or also as regards proprietory right, I have the honor to observe that the main advantage of introducing the system of a fixed boundary would be that the villagers on either side would cease to be exposed to the caprices of the river in the matter of proprietory right as well as of territorial jurisdiction. It would therefore be necessary to authoritatively prescribe, in fixing the boundary once for all along the river between British and Baháwalpur territory, that such boundary would regulate proprietory rights as well as jurisdiction, in future, on the British side. If this were done, the Baháwalpur authorities would doubtless deal with the question similarly on their side; for it is not likely that British villages would be allowed to acquire land under any circumstances of river action on the Baháwalpur side of the boundary line when Baháwalpur villages were restricted from doing so on the British side. As regards the principles on which the fixed boundary lines would be determined in introducing the new system, I presume that ordinarily the existing limits of proprietorship on either side would be accepted as the basis of the future fixed boundary lines. It would be hard, however, to stereotype the present position in the case of any villages which may have suffered considerable losses from river action recently, and which would have the chance, under the present system, of recouping their losses by another change in the course of the river. It would seem but fair, therefore, that in exceptional cases where any village has, within the last few years, lost by river action a considerable portion of its lands which had formed part of its area for a long period previously, the British and Baháwalpur officers who may be entrusted with the duty of laying down the new fixed boundaries should be empowered to disregard the existing proprietory status, and to fix such boundary line between such villages and those on the opposite side of the river which have benefited unduly at their expense as shall represent an equitable compromise, based on the average of gains and losses by river action on either side during a reasonable period back.

Abstract translation of a Murásila, dated 18th September 1889, from His Highness the Nawáb of Baháwalpur, to the Commissioner and Superintendent, Lahore Division.

ACKNOWLEDGES the receipt of this office murásila, dated 22nd July 1889, and its enclosure, and informs him in reply thereto that, as directed in paragraph 12 of Punjab Government's letter No. 245, dated 9th May 1889, orders have been issued to the effect that the zamíndárs of the Baháwalpur State should not make any disturbance or any encroachment until a decision has been pronounced in regard to the dispute. The Darbár concurs with the proposal made in paragraph 16 of Punjab Government's letter, but asks for further detail with regard to the following points:—

1st.—On what principle and system the fixed boundary should be laid between the two Governments, or, in other words, what would be its basis, *i. e.*, whether the present river will stand as the fixed boundary between the two Governments, and at some durable point the pillar having been erected the distance beween that point and the river will be measured and put down in the records, and for the future that would be considered the boundary, regard being had to no changes of the river; or whether some previous boundary will be considered the basis of the proposed fixed boundary?

2nd.—How will the *chakars* now in existence on both sides of the river be treated?

3rd.—Will the proposed fixed boundary, in case it is determined in any way, affect the owners of lands situate on the bank of the river; for according to alluvion and diluvion rules, if any area having been gradually eroded is afterwards thrown up by the river in frontage of an estate, the area thus thrown up is considered to belong to that estate? Will this rule be followed or not when a fixed boundary has been determined?

For instance, if an area thrown up by the river on the frontage of the land of the zamíndárs of one Government is so large that it has over-stepped the fixed boundary of one Government, the land will, as usual, be owned by those zamíndárs, but shall the zamíndárs pay land revenue there of to the Government in whose boundary the area has been thrown up or not?

No. 86, dated Lahore, 5th February 1890.

From—H. C. FANSHAWE, Esquire, Junior Secretary to Government, Punjab,

To—The Senior Secretary to Financial Commissioner, Punjab.

I AM directed to acknowledge the receipt of your letter No. 769, dated 7th November 1889, regarding the river boundary between the Baháwalpur State and British territory, and in reply to convey the following observations of the Lieutenant-Governor.

every effort will be made to keep the cost of operations within the limit of Rs. 16,000, and that if it is foreseen that the work will cost appreciably more a further report will be immediately submitted.

2. A copy of a letter which has this day been addressed to the Nawáb of Baháwalpur is enclosed.

Copy of a letter, No 175, dated 1st June 1891, from the Surveyor in charge Indus Riverain detachment, Simla, to Colonel H. R. Thuillier, R.E., Surveyor-General of India.

I HAVE the honour to submit the following report in reference to the survey of the Indus River, between the district of Dera Ghází Khan and the Baháwalpur State, executed by the detachment in my charge during the past cold weather.

The field work was started on the 15th November 1890, and brought to a close on the 11th April last.

The strip of country surveyed in detail, on both banks of the Indus, comprising an approximate area of 557 square miles, extends from the tri-junction of districts Dera Ghází Khan and Muzaffargarh and the Baháwalpur State on the east to the tri-junction known as the "Irighatti pillar" on the west, which, prior to 1889-90, was the tri-junction point of the Sind and Punjab Provinces and the Baháwalpur State.

The entire work has been based on a traverse survey, each village or part of a village falling within the scope of the topographical detail survey, having a traverse run round it, and these again being connected with a contiunous line of village tri-junctions on either bank, quite free from, and above the action of, the river in flood, thus enabling a Surveyor at any future time to lay down with perfect accuracy any boundary now surveyed, which may hereafter be lost.

The common boundary between the district and State has been surveyed in the presence of and with the mutual consent of both sides where *boná fide* disputes were found to exist; both boundaries have been surveyed and will be shown on my maps.

The heads of all *"mahaz"* lines have been carefully taken up and shown on my maps, where they could be identified. When they had been washed away or otherwise destroyed, the direction of the line itself has been ascertained by the trees cut through the jungle at the time the heads existed.

Complete tracings of my field sections are now in course of preparation and, it is expected, will be ready for submission in 20 days from date.

The fair maps of the season's work, which comprise 32 sheets on the 4" = 1 mile scale, will not be completed before October next, and will probably not be ready for publication earlier than February or March 1892.

Copy of a letter, No. 55 C., dated 12th June 1891, from the Senior Secretary to Financial Commissioner, Punjab, to the Revenue Secretary to Government, Punjab.

WITH reference to correspondence ending with your letter No. 79, dated 3rd February 1891, I am directed to submit copy of a letter No. 148, dated 3rd June, and of its enclosure, from the Surveyor-General of India, forwarding a report on the survey of the riverain boundary between the Baháwalpur State and the Dera Ghází Khan district.

2. Having regard to the orders contained in para. 6 of your letter No. 86, dated 5th February 1890, His Honor will probably not wish the survey of the rest of the river boundary to be undertaken at present, until it is seen if that now completed leads to any practical result as regards the laying down of a fixed boundary between Dera Ghází Khan and Baháwalpur.

3. On receipt of the tracings of the field sheets mentioned in para. 1 of the Surveyor-General's letter, a further communication will be made in regard to the action to be taken for determining the contemplated fixed boundary line.

No. 429, dated Simla, 17th September 1891.

From—R. G. THOMSON, Esquire, Offg. Revenue Secretary to Government, Punjab,

To—The Senior Secretary to Financial Commissioner, Punjab.

WITH reference to correspondence ending with this office letter No. 79 of 3rd February 1891, I am directed to say that the Lieutenant-Governor has now had an opportunity to examine the Baháwalpur Riverain Survey maps and to discuss them orally with Mr. Pemberton, the officer by whom they were prepared, and with the Officiating Second Financial Commissioner.

2. The results of the survey (which are rather unexpected) show that the existing boundary between Baháwalpur and British India and between Baháwalpur and British villages is in this part of its course not only extremely irregular, but that for almost the whole of its course it has at the present time ceased to be a river boundary at all. All along the length surveyed it is a rare

exception for the boundary to run along the deep stream. Sometimes it runs west of the river, but much more frequently to the east, where it is generally well away from the present course of the main stream. Under these circumstances, which are not what he expected to find, His Honor has reluctantly come to the conclusion that it will be better to postpone all attempts to lay down a fixed boundary at present. The movable boundary, which at present exists in accordance with riverain law and custom, is alike the boundary of jurisdiction between the two States and of property between British and Baháwalpur villages or mauzás, and, as has been already explained, a fixed boundary would be more mischievous than useful if it merely delimitated jurisdiction and did not also define property. But as things actually stand at present, and with the river in its present position, it is practically impossible to propose and lay down any fixed line to define both jurisdiction and property which would be alike acceptable to the two States and to the British and Baháwalpur village estates interested. Such a measure would be possible by a process of give and take if the river ordinarily separated British and Baháwalpur villages, lands held across the river being rare exceptions, as in such case the area under sand and water in the bed of the river could be assigned in suitable proportions to the opposing estates and an acceptable compromise effected, but as things stand at present this is not practicable.

3. Boundary cases affecting British and Baháwalpur villages and the line of jurisdiction of the two States must therefore continue to be dealt with as they arise according to custom and past practice and decisions. The maps prepared by Mr. Pemberton can be sent to the Deputy Commissioner of Dera Gházi Khan, who will no doubt find them very useful for indicating present possession on both sides of the river of land not actually in the river bed, and for the identification of lines determined in former boundary disputes. It must, however, be remembered that the boundary lines laid down by Mr. Pemberton are not in themselves authoritative in any case. In some cases—where village boundaries in the river bed are marked by blue lines—they are taken from old Revenue Survey or Shajra maps. Those maps showed possession or claims at the time they were made, but as the rule of right varies by the law and custom with the movements and action of the river, such old boundaries in the river bed are not in themselves any good basis for a decision when land emerges from the river.

4. It may be observed that in some parts of the tract the river is now running well within British territory, both banks being held for considerable distances by the same or different British village estates. In these parts the present boundary disputes, if any, caused by river action will be disputed between British villages. It might be possible to induce these villages to adopt a fixed boundary *inter se*, and if so, Mr. Pemberton's maps would be very useful for the purpose. This suggestion might, His Honor thinks, be considered by the Assistant Commissioner of Rájanpur and reported upon. If he is not able to deal with it, its further consideration might be deferred till the re-settlement of Dera Gházi Khan is taken up.

BOUNDARY OF KAPURTHALA AND BRITISH TERRITORY.

No. 7.—*Boundary between British Territory and Kapurthala.*

Copy of No. 683, dated 12th December 1862, from the Government of the Punjab, to the Government of India.

It will be in your recollection that in recognition of the services rendered by the Rája of Kapurthala a remission of tribute amounting to Rs. 25,000 was made in his favor. But subsequently on the representation of the Rája this sum was again reimposed, and a jágír in the Bári Doáb, formerly held by his father, restored to him in perpetuity.

2. The Lieutenant-Governor then recommended and the Supreme Government agreed that the Civil and Police jurisdiction of this restored jágír should not be exercised by the Rája, but as at present by the British Government.

3. The Rája is disappointed with this decision; and on reconsidering the subject the Lieutenant-Governor has acquired fresh information which he thinks ought to be laid before the Supreme Government.

4. It appears that the title to the jágír was investigated and reported on soon after the annexation of the Punjab proper on the termination of the second Sikh war. The Board of Administration recommended and the Supreme Government affirmed that the jágír should be upheld only for the life of the present Rája's father. Accordingly on his death it was resumed.

5. The late Rája did not fail to petition the Board of Administration against the decision arrived at. But Sir John Lawrence recorded, that, it having been given after mature deliberation, it could not be modified, but that on the Rája's demise his object of perpetuating the jágír in his family might be attained by other jágír village being made over to our Government in exchange for it.

6. Now the present Rája never took action on this order of Sir John Lawrence. Had he done so he would have acquired the same jurisdiction which held in the villages to be given in exchange, that is, they would have come under his administration, from which it is plain that even in 1850 Sir John Lawrence saw no insuperable objection to the restoration of the Rája's rule over the jágír, and the case is now far stronger.

7. For subsequently to Sir John's rejection of the claim, came out the order of the Court of Directors (No. 20, dated 17th July 1850), under which jágírs acquired by Sikh Chiefs by conquest in the Jullundur Doáb, originally granted only for the life-time of the possessor for the time being, have been confirmed to the lineal heirs in perpetuity, and (as remarked in your office letter No. 245, dated 28th January 1860) although this order may not apply to jágírs in the Bári Doáb, yet bearing in mind the Rája's recent services, as well in Oudh as in the Punjab, it is quite in accordance with the spirit of the Honorable Court's orders to restore the jágírs in the Bári Doáb to the Rája.

8. The Bári Doáb jágírs were amongst the earliest acquired by the Rája's great ancestor, Jassa Singh Kalal, whose birth-place, *Alhoo*, is one of the important villages and still gives the title to the family. He naturally desires that this original jágír should be incorporated with the rest of the territory under his rule. His anxiety has been evinced by the pecuniary loss he is willing to sustain to compass his object, as, instead of accepting a remission of Rs. 25,000 from his annual tribute, he prefers to obtain the restoration of villages the reveuue of which is at present only Rs. 16,742.

9. On the whole, then, the Lieutenant-Governor sees cause to retract his objections to the jágír being included in the Rája's jurisdiction and Government. In a political point of view, His Honor sees some advantage in having the influence of a powerful Sikh Chief for the control of the people of the Mánjha, and in a fiscal point of view the subjection of both banks of the river Sutlej to our jurisdiction will facilitate the settlement of disputes concerning alluvion and diluvion.

10. Before making over the jágír it would be necessary to form the villages into a compact tract and to exchange some of them, but as the Rája has intimated to the Commissioner that he wishes the jágírs to be consolidated only in the event of independent jurisdiction similar to that which he exercises in the Kapurthala territory being granted to him, the Lieutenant-Governor will defer to take action in this matter until apprised of the view of the Supreme Government.

11. His Honor would only add that the case must be treated as a special one, combining the claims which arise from good services performed during the mutinies and from title acquired by conquest. It will not form a precedent.

Copy of No. 92, dated 26th January 1863, from the Government of India, to the Government of the Punjab.

WITH reference to your letter No. 683, dated 12th ultimo, I am directed by the Governor-General in Council to enquire, with reference to the correspondence noted in the margin, whether the jágír sanctioned for Nihal Singh by the orders of 15th December 1849 differed in any way from the other jágír sanctioned by the same orders, in none of which it is believed were the jágírdárs permitted to exercise police and revenue powers, and whether Nihal Singh really exercised such powers in the Bári Doáb jágírs between the date of these orders and his death.

Copy of letter from Secretary to Government, Punjab, No. 51 of 14th April 1863, to the Government of India.

IN reply to your letter No. 92, dated 26th January last, I am directed to state that Rája Nihal Singh, Alloowalia, father of the present Rája of Kapurthala, did not exercise police or revenue powers in the Bári Doáb jágír between the short interval of the issue of the order of Supreme Government, No. 2675, dated 15th December 1849, and his death. But I am to point out that he certainly exercised those powers in those estates until the date of the annexation of the Punjab to British Rule, 29th March 1849; and it was in consequence of the general order confiscating all powers to the lord paramount that the Alloowalia Chief was shorn of his jurisdiction.

2. The title of the Rája to the jágír in the Punjab proper was admitted by the Supreme Government, though the jágír was upheld only for the life of the Rája, and as no powers were allowed to be exercised by any Punjab jágírdár, none were granted to him over this Punjab jagírdár.

But as stated in my No. 683, dated 12th December last, the late Rája petitioned against the decision of the Government, and, as explained in the 6th para. of my letter, obtained an order from Sir John Lawrence, on which, had the Rája acted, he would have acquired the jurisdiction over these villages he now seeks.

3. The object of the present reference is, for reasons already explained, to put the Rája in the same position as regards his Punjab proper jágír as he was in before the conquest of the Province by the British Government.

4. I am to add further that these villages in the Bári Doáb formed the original estate of the family, and the lands now held by the Rája in the Jullundur Doáb were acquired, and subsequent to the possession of the original jágír. Any power, therefore, exercised by him in the more recently acquired territory would *a fortiori* belong to him over his ancient family estates.

Copy of a letter from the Secretary to the Government of India, Foreign Department, to the Secretary to Government, Punjab, No. 123, dated 8th June 1864.

THE Governor-General in Council has had under his consideration the correspondence noted in the margin,* in which the Punjab Government recommend that the jágírs held by the Rája of Kapurthala in the Bári Doáb should be consolidated, and that the Rája should receive the same powers therein as in his trans-Sutlej estates.

* From you, dated 12th December 1862, No. 683.
To you, dated 26th January 1863, No. 92.
From Mr. Forsyth, dated 14th April 1863, No. 51.
From you, dated 23rd May 1864, No. 265.

2. In reply, I am directed to inform you that his Excellency in Council does not concur with the Lieutenant-Governor in the political expediency of restoring the group of villages in question to the representative of the Alloowalia family. The Rája of Kapurthála has been amply and sufficiently rewarded for

his loyalty and good services in 1887, and his Excellency in Council does not approve of the re-opening under any form or shape of the question of rewards for conduct in 1857.

3. But independently of this, there is the weighty objection of re-submitting to Native rule villages which have been fifteen years under our jurisdiction. The advantages of the proposed measure are trivial, even if admitted, though the Governor-General in Council sees no reason to admit them; while the disadvantages and inconveniences are great both to the people and to the British Government.

4. With reference to the statement that in 1850 Sir John Lawrence recorded an order to the effect that these villages might be continued to the family after Nihal Singh's death in consideration for an equivalent elsewhere, I am to state that Sir John Lawrence never contemplated the restoration to the family of police and revenue powers, which had ceased even during Nihal Singh's life.

For these reasons His Excellency in Council declines to disturb the previous orders of the Government on the subject.

Copy of a letter No. 205, dated 3rd September 1864, from the Officiating Commissioner and Superintendent, Lahore Division, to the Financial Commissioner for the Punjab, Lahore.

I HAVE the honor to report for orders of Government the case of transfer of two villages called Jhoogián Raieeán and Jhoogián Dográn from the left to the right bank of the River Beás in the year.

2. These villages were in the Kapurthala territory before the river, by a sudden change in its course, transferred them bodily to the British bank.

3. In the beginning of 1860 the Government restored to the Kapurthala Rája his Trans-Beás jágír of Fatehabad and other villages, principally lying on the right bank of the Beás, in lieu of the remission of nazarána which had been granted him for his services during the mutiny. The sovereignty remained with the British Government. The Rája merely got the right to the revenue. The two Jhoogiáns lie immediately opposite the jágír, from which they are separated by a strip of land, now called "Chak Sirkari," which formed the bed of the river before its sudden turn in 1860 to the Kapurthala side of the two Jhoogiáns. * * *

4. The area of the Jhoogián having been transposed in its identity, there is no question as to proprietory rights in the soil. These belong to the persons who possessed them when the villages were on the Kapurthala bank of the river. The question concerns the jurisdiction and the right to the revenue. To the latter the Rája lays a claim in virtue of the villages lying opposite his Fattehabad jágír.

5. When officiating as Commissioner of the Jullundur Division, I submitted a report* on the consolidation of the Rája's Trans-Beás jágír. To the best of my recollection I did not recommend the bestowal of sovereign powers on the Rája in that jágír. No orders have yet been received, and consequently the jágír should be regarded as that of an ordinary dependent jágírdár.

* No. 178, dated 13th December 1861.

6. It cannot for a moment be urged that a dependent jágírdár is entitled to villages which may be brought into connection with his jágír by an alteration in the course of a river. There is no such rule or custom known in the Cis-Indus portion of the Punjab, and if this is admitted the Rája of Kapurthala has no claim to these two villages of Jhoogián.

7. There is this further reason against admitting the Rája's claim, that in 1857 eight villages which had been cut off from the Ferozepore District by the diversion of the Sutlej opposite the Kapurthala territory, and had thus been brought into connection with that territory, were given * up by Government to the Rája.

* See letter from Supreme Government, to Chief Commissioner, Punjab, No. 2551, dated 12th June 1857.
Secretary to Chief Commissioner to Financial Commissioner No. 568, dated 15th July 1857.

8. The Rája argues that in December 1852 Mr. Blyth, Assistant Settlement Officer, ruled that the boundary of Govindwál and Chak Beháripur, at present jágír villages of the Rájás, Trans-Beás, should not be affected by any change of the river—in other words, that the then boundary between British and Kapurthala territory should not be affected by the position of the main stream, but that order in reality does not affect the question of jurisdiction or revenue. It distinctly relates that at the boundary demarcation the main stream was the boundary between Govindwal (then British territory) and Kapurthala, and that that was the reason why an island claimed by the Govindwal and Chak Beháripur people was assigned to the Kapurthala Rája. At the time the order was passed the main stream was in the same position as at the boundary demarcation, and therefore the claim to the island was dismissed. The island was declared to be the property of the then owners, no matter where the main stream might be. It will be seen then that this order merely relates to the proprietory right in the land, which undergoes no change so long

as its identity is unbroken, and that it does not affect the question of jurisdiction or revenue in any way; even if it did, as is asserted to be the case in another instance, I apprehend that such an order could not be held to affect the general question of river law.

9. The land called "Chak Sirkari" should clearly follow the two Jhoogiáns. If they are the right of Government, so is it.

10. The area and revenue of these lands are as follows:—

	Area.	*Jama.*
Jhoogián Raieán	305	181
" Dogran	525	126
Chak Sirkari (not known in this office)		33
		340

The revenue of all these lands has been kept in deposit since 1860.

11. Should the Government confer the sovereignty of the Trans-Beás jágír on the Rája, all the above lands should be regarded as forming a portion of the jágír, both as regards jurisdiction and revenue. In that case the river would run between Kapurthala independent territory on both sides.

12. I beg to forward the original correspondence as per margin.

No. 268, dated 10th July 1861, from Deputy Commissioner, Amritsar.
No. 266, dated 17th, July 1861, to ditto.
No. 64, dated 24th January 1863, from ditto.
No. 152, dated 28th February 1863, to ditto.
No. 159, dated 3rd March 1863, from ditto.

N. B.—Chief Commissioner in his No. 395, dated 1st May 1857, to Secretary to Government, recommended that it be ruled authoritatively that the main stream shall form the boundary between the British possession and the jurisdiction of the Kapurthala Chief and of all Independent Chiefs. But he recommended a different course as regards mere jágírdárs.

The Governor-General in Council (see Secretary's No 2551, dated 12th June 1817) did not agree, deeming it preferable that in each case a separate reference should be submitted to Government of India. These orders appear to be still in force.

(Sd.) *T. D. FORSYTH.*

12*th February* 1868.

Copy of a docket, No. 3250, dated 20th September 1864, from the Personal Assistant to the Financial Commissioner, Punjab, to the Commissioner and Superintendent, Amritsar Division

WITH reference to para. 5 of his No. 205, dated 3rd current, forwards for information copies of a letter, No. 444, dated 17th June last, from the Government, Punjab, with one enclosure, No. 123, dated 8th idem, from the Supreme Government, negativing the proposal to consolidate the jágír of the Kapurthala Rája in the Bári Doáb.

Returns English and Vernacular files.

Copy of a letter, No. 96, dated 24th May 1865, from the Commissioner and Superintendent, Amritsar Division, to the Financial Commissioner, Punjab.

YOUR letter No. 3250, dated 20th September last, informed this office, with reference to para. 5 of Mr. Melvill's No. 205, dated 3rd September, that the Supreme Government had refused to allow the consolidation of the Rája of Kapurthala's jágír.

2. In Mr. Melvill's letter above cited, the argument urged is, as I understand it, that, unless Government conferred on the Rája the sovereign jurisdiction in his Trans-Beás jágir, two villages, named Jhoogián Raieán and Jhoogián Dográn, should be considered the property of the British Government (as to jurisdiction and revenue), although they were in the Kapurthala territory before the river Beás changed its course in 1860, as it had been laid down that the river was the boundary between our territory and that of the Rája, and several villages had been given up to the Rája on the river changing its course in his favor.

3. Mr. Melvill further stated that there was a strip of land, which had formerly been the bed of the river, which he claimed for the British Government for the same reasons, and that the collections for the two villages and this strip had been held in deposit since 1860.

4. The question of jurisdiction has been disposed of by the orders of the Supreme Government, but I solicit your orders on the revenue question.

Copy of a letter, No. 43, dated 20th March 1866, from P. H. EGERTON, Esquire, Commissioner and Superintendent, Amritsar Division, to Colonel EDWARD LAKE, Financial Commissioner for the Punjab, Lahore.

British Government *versus* Rája of Kapurthala—Boundary case.

I beg to forward a memorandum on the case noted in the margin, submitted by Officiating Deputy Commissioner of Amritsar, as required in your docket No. 517, dated 7th ultimo.

2. It may not, perhaps, be considered out of place for me to observe that, considered according to the principles proposed in your letter (when Commissioner of Jullundur) to the Financial Commissioner, No. 107, dated 18th May 1860, the bearings of this case would be as follows :—

Jurisdiction would lie with Amritsar.

Proprietory right of the two Jhoogiáns would remain as before; that is, the original owners would continue in proprietory rights, but revenue would follow jurisdiction, that is, would go to the British Government.

The lands of Chak Sirkari which, after having been submerged for many years, are now thrown up, would be formed for the most part into a separate mehál, and the proprietory right bestowed on persons who had suffered by the action of the river; but portions would be made over to the Government villages adjoining it on one side, and to the jagír villages adjoining on the other side. Revenue would, I think, go to Kapurthala, because this chak is thrown up between his Fetehabad jágír and the river, though it is not actually overlapped by jágír villages, but adjoins British territory at the north side. The transfer of eight villages sanctioned in Government of India's No. 2551, dated 12th June 1857, was communicated to your office in Secretary to Chief Commissioner's No. 568, dated 15th July 1857. The details of this transfer are not in this office, but it is presumed that the *revenue* was transferred, although in this case it must be supposed that the features and landmarks of the eight villages were not obliterated. By your No. 107, above cited, this would not prevent revenue from following jurisdiction in the case of an independent Chief. The only complication arises from the fact that these villages have by the action of the river been annexed to a dependent jágír (which also belongs to the Rája) on the British side of the river. Undoubtedly the Raja has no claim to them on account of their being so annexed to his independent jágír, but his plea seems to be now that if these villages had originally belonged to *British territory*, and been transferred by a change in the river's course to his *dependent jágír*, then the British Government's right to the revenue would not have been affected, and so, putting himself in the same position as the British Government would have held, neither should he, the Rája, lose the villages because they have been transferred from his territory to a dependent jágír.

3. If we suppose that the Fatehabad jágír belonged to some other dependent jágírdár, then there can be no doubt that the Rája's claim to the revenue would be held as *against the independent Jágírdár*, but whether it would be held as against the Government to which the jágírdár is dependent is the point at issue.

4. I am not aware whether the principles proposed by you have ever been authoritatively sanctioned, or whether the orders of the Supreme Government, No. 551, dated 12th June 1857, above alluded to, which decline to lay down a rule and prescribe a reference in every case, are still in force.

Copy of a docket, No. 186, dated 2nd April 1868, from the Assistant Secretary to Financial Commissioner Punjab, to the Secretary to Government, Punjab.

No. 205, dated 3rd September 1864, from Commissioner, Amritsar, with map.
No. 3250, dated 20th idem, to ditto.
No. 96, dated 24th May 1865, from ditto.
No. 43, dated 20th March 1866, from ditto, with enclosure.

Submits in original, for the orders of Government, with a memo, by Mr. Forsyth, the correspondence noted in the margin connected with the transfer of two villages from Kapurthala to British territory, owing to a change in the course of the river Beás.

Copy of a memo. by T. D. Forsyth, Esquire.

In 1857 the Chief Commissioner for the Punjab submitted a reference to the Supreme Government regarding the transfer of certain villages from the Ferozepore district to the Kapurthala State owing to a change in the course of the river Sutlej.

The Chief Commissioner then recommended that the villages should be transferred, and that it be ruled authoritatively that the main stream shall form the boundary between the British possession and the jurisdiction of that Chief and of any other Chief in all similar cases. But as regards mere jágírdárs, the Chief Commissioner proposed that when the lands are transferred from one side to the other of a river in such manner as to be recognizable, the jágírdár's (Hakimi) rights be maintained, but not otherwise.

The Supreme Government in their Secretary's No. 2537, dated 12th June 1857, sanctioned the transfer in the particular instance reported, but declined to accept the Chief Commissioner's general proposal, and ordered a separate reference in each case for the orders of the Government of India.

A case reported by the Commissioner, Amritsar Division, in his No. 205, dated 3rd September 1864, has now to be referred for the orders of Government.

In 1860, two villages, called Jhoogián Raieán and Jhoogián Dográn, formerly in Kapurthala, were by a sudden change in the river transferred bodily to the British bank.

In the beginning of 1860 the Government restored to the Kapurthala Rája his Trans-Beás jágír of Fatehabad and other villages. The sovereignty, however, remained with the British Government, the Rája merely receiving the right to the revenue.

The two Jhoogiáns lie immediately opposite the jágír, from which they are separated by a strip of land, now called Chak Sirkari, which formed the bed of the river before its sudden turn, in 1860, to the Kapurthala side of the two Jhoogiáns.

The area of the Jhoogián having been transposed in its identity, there is no question as to proprietory rights in the soil. These belonged to the persons who possessed them when the villages were on the Kapurthala bank of the river. The question concerns the jurisdiction and the right to the revenue. To the latter the Rája lays claim in virtue of the villages lying opposite his Fatehabad jágír.

The Rája argues that in December 1852, Mr. Blyth, Assistant Settlement Officer ruled that the boundary of Govindwal and Chak Behàripur, at present jágír villages of the Rájás, Trans, Beás, should not be affected by any change of the river—in other words, that the then boundary between British and Kapurthala territory should not be affected by the position of the main stream. But that order in reality does not affect the question of jurisdiction or revenue. It distinctly relates that at the boundary demarcation the main stream was the boundary between Govindwal (then British territory) and Kapurthala, and that that was the reason why an island claimed by the Govindwál and Chak Behâripur people was assigned to the Kapurthala Rája. At the time the order was passed the main stream was in the same position as at the boundary demarcation, and therefore the claim to the island was dismissed. The island was declared to be the property of the then owners, no matter where the main stream might be.

It will be seen that this order merely relates to the proprietory right in the land, which undergoes no change so long as its identity is unbroken, and that it does not affect the question of jurisdiction or revenue in any way. Even if it did, as is asserted to be the case in another instance, I apprehend that such an order could not be held to affect the general question of river law.

Several other cases have been cited by the Rája's Agent, and an enquiry was ordered by Colonel Lake, Financial Commissioner, and a report submitted by the Deputy Commissioner of Amritsar, which gives no satisfactory conclusion.

In fact, if the Rája could by those cases establish a right adverse to one founded on the deep-stream principle he would injure his own cause, for, whereas he contends that in 1852 and the years immediately following he obtained lands without any reference to the position of the river, he overlooks the fact that in 1857 he obtained a considerable accession of territory solely in consequence of the position of the river being changed.

His remaining argument is that if these villages had originally belonged to British territory, and been transferred by a change in the river to his dependent jágír, then the British Government's right to the revenue would not have been affected, and so, putting himself in the same position as the British Government would have held, neither should he, the Rája, lose the villages because they have been transferred from his territory to a dependent jágír.

But there is a fallacy in this argument, for the British Government could only make the claim on the supposition that the dependent jágír on the other side of the river was in British territory. There is, however, one point remaining for consideration: granting that the jurisdiction over these villages belongs to the British Government, still a question as to the revenue remains. There is no doubt that if the Rája had been a dependent jágírdár on both sides of the river, and one of his villages was transferred bodily from one side to the other of the deep stream, he would not lose the revenue—if the opinion expressed by the Chief Commissioner in his Secretary's letter already quoted be adopted; and it would appear to be only right to apply this principle to the present case, treating the revenue question entirely separate from that regarding jurisdiction.

The English files connected with this case are forwarded for the perusal of His Honor the Lieutenant-Governor and orders are solicited.

No. 1315, dated 12th November 1869.

From—T. H. Thornton, Esquire, D.C. L., Secretary to Government, Punjab,

To—J. A. E. Miller, Esquire, Secretary to Financial Commissioner, Punjab.

With reference to your No. 186. dated 3rd April 1868, the original enclosures of which are herewith returned, I am desired to inform you that the Right Honourable the Governor-General in Council is pleased to decide that the revenues of the villages of Jhoogián Raieán and Jhoogián Dográn, which were in 1860 transferred from the left to the right bank of the river Beás by a change in the course of the main stream, shall be continued to be enjoyed by the Rája of Kapurthala.

2. They should accordingly be added to His Highness' jágír of Fatehabad, and all collections made by the British Government since the date of transfer should be paid over to the Rája.

No. 398, dated 22nd April 1872.

From—W. M. Young, Esquire, Officiating Secretary to Financial Commissioner, Punjab,

To—The Officiating Secretary to Government, Punjab.

I am directed to forward, in original, the correspondence noted in the margin regarding the claims of the Rája of Kapurthala to the revenues of certain alluvial lands on the River Beás.

Commissioner, Amritsar, No. 51 of 1st March 1870.
Secretary to Financial Commissioner, No. 1796, dated 29th March 1870.
Commissioner, Amritsar, No. 2-15, dated 3rd January 1872.
Commissioner, Amritsar, No. 69-458, dated 21st February 1872.

2. The correspondence comprises three distinct questions :—

(1).—Whether the Munda Island shall be held to have been, while it existed, part of Kapurthala territory.

(2).—Whether Chak Sirkár is to be held to have been part of the Rája's jágír on the western side of the Beás, and now that the river has shifted to the west of the chak, whether it is to be held to be part of the Rája's independent jágír, and, therefore, in his jurisdiction.

(3).—Whether the tracts known as Chaks Desal and Chirághpur are to be considered as part of the Rája's independent jágír as regards revenue and jurisdiction, or as part of his Fatehabad jágír.

3. These points are clearly put in the letter of Commissioner, Amritsar, No. 2-15, dated 3rd January 1872; but with regard to the latter, it has been shown in Commissioner's No. 69-458, dated 21st February, that Major Davies was under a misapprehension in stating that the villages on the right bank of the Beás, to which Chaks Desal and Chirághpur accrued, formed part of the Rája's jágír. Those villages are Government villages.

4. With regard to (1), the Financial Commissioner, concurring with the Commissioner's views as expressed in his No. 2-15, dated 3rd January 1872, recommends that the revenues of Munda Island, which are now in deposit, should be refunded to the Rája, on the ground that, while it existed, it was on the Kapurthala side of the river.

5. Similarly with regard to (2), the Financial Commissioner considers that the present position of Chak Sirkári leaves no doubt that it should be held to be part of the Rája's independent territory as regards revenue and jurisdiction. As the chak is situated on the river at a point where the right bank lies in his jágír and the left in his independent territory, there would seem to have been no good reason for the revenues having been deposited in the Government treasury, and, as the final change of the river bed has brought the chak into contiguity with the Rája's independent territory, the jurisdiction of this tract should, in the Financial Commissioner's opinion, follow the revenues.

6. With regard to (3), the views expressed by Commissioner in para. 5 of his No. 2-15 of 3rd January need modification in consequence of the discovery made by Colonel Hall, to the effect that the villages to the lands of which the alluvial accretions known as Chaks Desal and Chirághpur are contiguous are Government villages, not in the Rája's jágír. The land has not been transferred by avulsion from the territory of the Rája lying opposite, and there is, therefore, no reason for assigning either the revenue or jurisdiction of these tracts to the Rája. The Financial Commissioner considers that they should be added to the villages on the right bank of the Beás in front of which they have been thrown up, the revenues being taken by Government.

7. The Financial Commissioner does not ask for any orders of a general character with regard to the last para. of Major Davies' letter, as he considers that questions of this nature must be considered separately, and no universal rule can be made to apply.

No. 1796, dated 29th March 1870.

From—J. A. E. Miller, Esquire, Secretary to Financial Commissioner, Punjab,

To—The Officiating Commissioner and Superintendent, Amritsar Division.

With reference to your No. 51, dated 1st March, relating to the alluvial lands formed on the Beás between British and Kapurthala territory, I am directed to state that, though

some subordinate officials of the Kapurthala State were present with the Assistant Commissioner when he made his local enquiry, it does not appear what view of the matter was expressed by them or by the Rája's Government.

2. The Financial Commissioner requests that this may now be ascertained and reported.

No. 51, dated 1st March 1870.

From—Lieutenant-Colonel R. Young, R.E., Officiating Commissioner and Superintendent, Amritsar Division,
To—The Secretary to Financial Commissioner, Punjab.

With reference to your No. 6936, dated 24th November last, I forward copy of this Office No. 677 of 2nd December 1869, and Deputy Commissioner Amritsar's No. 76 of 24th current, in original, with a map.

It concerns two questions,—1st, whether Chak Sirkári belongs to the Rája of Kapurthala's jágír; 2nd, whether the Munda Island belongs to his territory.

2. I was led to decide the first point summarily in the Rája's favor by this office letter No. 205 of 3rd September 1864, para. 9, which runs—

"9. The land called 'Chak Sirkári' should clearly follow the two Jhoogiáns. If they are the right of Government, so is it."

It is described in para. 1, which runs—"The two Jhoogiáns lie immediately opposite the jágír, from which they are separated by a strip of land, now called 'Chak Sirkári,' which formed the bed of the river before its sudden turn, in 1860, to the Kapurthala side of the two Jhoogiáns."

3. It is clear that the decision of the Right Honorable the Governor-General in Council, conveyed in your No. 6936 of 24th November last, gives the jurisdiction of the Chak Sirkári as well as of the two Jhoogiáns to the Amritsar authorities, who, therefore, will decide any questions which may arise as to proprietory or other right. It is not so clear, as pointed out by Assistant Commissioner, that it confers the revenue of Chak Sirkári upon the Rája; but if this office No. 205 of 3rd September 1864, was among the original enclosures returned with Secretary, Government, Punjab's No. 1315 of 12th November last, and had been laid before the Governor-General in Council, it is a fair inference that this also is conferred.

The island opposite Munda is now on the Kapurthala side of the deepest stream. If the authorities on either side were to follow the ancient custom for the decision of its jurisdiction,—a custom commencing with the independence of the Kapurthala State—they would simply fight for it; for the weaker would yield it to the stronger. As things now are, I can give no opinion, except that the paramount power should pass a river law to decide such cases.

No. 677, dated 2nd December 1869.

From—Lieutenant-Colonel R. Young, Officiating Commissioner and Superintendent, Amritsar Division,
To—The Officiating Deputy Commissioner, Amritsar.

I have the honor to forward, for compliance, copy of Secretary, Government, Punjab's No. 1315, dated 12th ultimo, to Secretary to Financial Commissioner, and also of this office No. 205, dated 3rd September 1864. The decision carries with it Chak Sirkári also as attached to the Mauzás Jhoogián and places the whole under the same jurisdiction as the rest of the Rája's jágír.

2. With reference to Deputy Commissioner's No. 433, dated 15th October 1867, requests report as to whether the deep river is now on the Amritsar or the Kapurthala side of the island near Munda and Gungáspura alluded to.

No. 265-76, dated 24th February 1870.

From—Major F. M. Birch, Deputy Commissioner, Amritsar,
To—The Officiating Commissioner and Superintendent, Amritsar Division.

In reply to No. 677, dated 2nd December 1869, submits report by Mr. J. W. Gardiner on the river Beás between Amritsar and Kapurthala, with a vernacular map.

Report by J. W. Gardiner, Esquire, Assistant Commissioner, dated 4th February 1870.

I have the honor to submit the report called for in Commissioner's No. 677, dated 2nd December, para. 2.

I crossed over in a boat to the island with the kánúngo of Tahsíl Tarn Táran, the Rája's Tahsíldár of Fatehabad, and Náib-Tahsíldár of Sultánpur, and several lambardárs and zamíndárs of Munda, &c. There is a ferry on either side of the island, and either stream is fordable; the bed of the branch on the Kapurthala side is the wider of the two, as is only natural considering that it was formerly the main stream. But I think there can be no doubt that now the greater body of water is in the stream which flows between the island and Amritsar territory. Our zamíndárs say that the two streams are equal, but the officials present said that the stream on the Amritsar chak side is the larger of the two.

2. I think it my duty to remark on the following words in para. 1 of the Commissioner's letter :—" The decision carries with it Chak Sirkári also, as attached to Mauza Jhoogián." Except that the two lands touch each other, I do not see how the chak can be said to be attached to Jhoogián. The Government letter is silent as to the chak, and Mr. Melvill says that if the Jhoogiáns are the right of Government, so is the chak ; but he does not seem at all to imply the reverse. The chak formed the bed of the river before its sudden turn to the Kapurthala side ; it is thus an alluvial accretion to the villages of Chak Behåripur and Govindwál, and the latter village has accordingly sued Government for proprietory right in the soil.

As Govindwál is the Rája's jágír and the Jhoogiáns have now been declared to be so also, Government may perhaps have intended to give him the strip between the two ; but Mr. Melvill writes that a jágírdár is not entitled to villages which may be brought into connection with his jágír by an alteration in the course of a river, and Government have apparently given the revenues of the Jhoogiáns to the Rája as an act of kindness, and in order that he may suffer no loss by the change in the river, as Mr. Thornton writes that the revenues are to be *continued* to be enjoyed by the Rája of Kapurthala.

Therefore, as the Rája had no right to the revenues of the two Jhoogiáns and the Chak Sirkári is attached to our villages, the Rája can have no right to its revenues.

No. 69-458, dated 21st February 1872.

From—Colonel C. H. HALL, Officiating Commissioner and Superintendent, Amritsar Division,

To—The Officiating Secretary to Financial Commissioner, Punjab.

ON a representation made to me by the zamíndárs of the villages in the Amritsar District marginally noted, that the subjects of His Highness the Rája of Kapurthala had appropriated the land which had accrued to the areas of their villages by the change of the course of the river Beás on the strength of the report made to you by Major Davies on this subject, I called for the correspondence, and found that Major Davies, in para. 5 of his No. 2, dated 3rd January, has made a mistake in stating that " the villages " (which are those named in the margin) " in front of which the land has been thrown up all belong to his (the Rája of Kapurthala's) jágír."

Dárapur.
Kirishái.
Keri Bodal.
Jalálabad.

2. Not one of these villages is in jágír to the Rája, and, as this error might affect the Financial Commissioner's decision of the case, I think it right to bring it to your notice.

No. 2-15, dated Amritsar, 3rd January 1872.

From—Major W. G. DAVIES, Officiating Commissioner and Superintendent, Amritsar Division,

To—The Officiating Secretary to Financial Commissioner, Punjab.

I AM glad to be able to state that I am now in a position to reply to your letter No. 1796 of the 29th March 1870. The delay which has occurred throughout this troublesome correspondence has arisen chiefly in consequence of there being no good map of the river and the lands on both sides. I had first to supply this want, and after I had obtained what was required from the Surveyor-General's office, I had to send the map to Deputy Commissioner in order that he might show on it the present position of the river and the islands, &c., the revenue and other rights in which have formed the subject of this correspondence. This was done in a letter, No. 321 of 1st November 1871, a copy of which, and Deputy Commissioner's reply No. 712 of the 21st ultimo, I have the honor to annex too for the Financial Commissioner's perusal.

2. Copies of the previous correspondence on this subject were furnished with this office No. 51 of 1st March, which sets forth the points for decision as they then were, *viz.* :—

(1). Whether the Munda island shall be held to be part of Kapurthala territory.

(2). Whether Chak Sirkári shall in the same way be held to be part of the Rája's jágír on this side of the Beás.

To this must be added now—

(3). Whether Chak Sirkári is now to be considered part of the Rája's independent territory.

In discussing these questions I shall avoid all reference to proprietory right, as this is a matter which can only be decided by a Court of Law. It may also be mentioned here that the Rája of Kapurthala has no sovereign rights within his jágír of Fatehabad on this side of the Beás, as will be seen by referring to Secretary to Government's No. 444 of the 17th June 1864, to the address of the Financial Commissioner, with its enclosure from Government of India, Foreign Department.

3. From the Deputy Commissioner's report and the map attached to it, you will see that the island of Munda no longer exists. As long as it existed, it would appear from Mr. Gardiner's report to have been on the Kapurthala side of the river. The Rája is therefore entitled to whatever revenue derived from it is in deposit.

Island of Munda.

4. Next, as to the tract called Chak Sirkári. This also is now on the left or Kapurthala bank of the river, and there can be no doubt that now at least the Rája is entitled to both revenue and jurisdiction. As regards the past, the history of the case shows that the chak originally formed part of the

Chak Sirkári.

river bed, and was in 1860 thrown up opposite the villages of Chak Behári̇pur and Govindwal by a change in the course of the stream. Since that time the river has shifted backwards and forwards, the deep stream being sometimes on this, sometimes on the other, side. As the land was not bodily transferred from one side to the other, but was gained by dereliction of the river, it would, following the general rule, have been added to the villages in front of which it was thrown up, and as these were two of the Rája's jágír villages, he would, had this procedure been adopted, have been entitled to the revenue. The creation of this tract of land, abandoned by the river into a separate Government estate, was an arbitrary act, for which there was apparently no warrant in either law or custom, and in my opinion the Rája's right to the revenue should not be affected thereby. On this subject I would refer you to Section 4 of Regulation XI of 1825, and the decisions of the Law Courts thereon, of which a summary will be found at pages 565-570 of Tremlett's Punjab Civil Code. If the Financial Commissioner concurs in my view, the revenue of this chak now in deposit should be paid to the Rája, and further interference on our part should cease and the Rája be allowed to take possession. If not, it will be necessary to determine *for each year of the existence of this chak,* whether the main stream of the river flowed on this or that side of the island—an almost hopeless task. The Rája's claim, I would add, is strengthened by the fact that this chak is only a continuation of the strip of land of which the two Jhoogiáns, already given to the Rája, form the lower portion.

5. There only remains for consideration the question of the revenues of the two alluvial tracts called Chaks Desal and Chirághpur. From the Deputy Commissioner's report it would appear as if these tracts had been formed by the gradual recession of the river, but from Mr. Gardiner's reports submitted after personal inspection in 1870, it would seem that they were transferred *bodily from the Kapurthala side.* In either case *the revenue* would belong to the Rája, and in the latter (following the Chief Court's decision in the case of Yusaf and others *versus* Sirdar Dewa Singh, 5, Punjab Record, Civil Judgments, No. 12) the jurisdiction also. It will be more convenient to treat the case as one of gradual accretion to the areas of the villages in front of which the land has been thrown up, and to this I may add the Rája, provided there is no doubt as to his right to the revenue, consents. The villages in front of which the land has been thrown up all belong to his jágír.

6. I would remark, in conclusion, that it would simplify matters greatly if it were once for all declared that the deep stream of the river shall for the future form the boundary between the Rája's independent estates on the left bank and his jágír of Fatehabad on the right bank of the Beás, leaving the question of *proprietory* right in lands affected by the actoin of the river to be determined by the Courts of Law having jurisdiction. It seems scarcely possible that Government should be a loser by making such a rule, for the revenue of the lands on both sides of the river, whether transferred by avulsion or gained by gradual accretion, must go to the Rája; and for determining the question of *jurisdiction* in this particular case there could be no better defined rule than the one proposed. The long correspondence, of which this is, I hope, one of the last letters, shows, I think, most unmistakably the necessity for some such simple form of determining questions of revenue and jurisdiction.

No. 321-1306, dated 1st November 1871.

From—Major W. G. Davies, Officiating Commissioner and Superintendent, Amritsar Division,

To—The Deputy Commissioner, Amritsar.

I have the honor, with reference to the correspondence noted in the margin, to forward herewith a map showing (1) the Rája of Kapurthala's jágír on this side of the Beás, (2) the villages of the Rája's independent territory on the opposite side of the river, and the river itself as it flowed between them in the years 1846-47 and 1851-52, when the two surveys were respectively made of the districts of Jullundur and Amritsar; the red line shows its position when the former survey was made. This is not material to the matter in hand, but is mentioned in order that you may know what the red lines indicate.

Mr. Gardiner's 288 of 25th July 1870, to Commissioner's address.
Deputy Commissioner's No. 291, } 28th July 1870.
Ditto „ 292, }
Ditto „ 460, of 20th December 1870.

2. Taking this map as a basis, I shall be obliged by your deputing one of your best native surveyors at once to the spot, and, after causing a tracing to be made of as much of the map as may be required for the purpose, have shown thereon the present position of the river and the tracts of land, islands, &c., in regard to which there are disputes and doubts (*a*) as regards proprietory right and (*b*) as regards revenue and jurisdiction. The following is a list of them so far as the records of this office show :—

1. Chak Sirkari.
2. Chak Desal.
3. Chirághpur
4. Island of Munda.

The two Jhoogiáns, the revenue of which was given to the Rája of Kapurthala as part of his jágír in 1869, should also be separately shown. If any other islands have been formed, or alluvial tracts have been thrown up, they should be shown. In sending up the map the state of the channels of the river should be described, whether the deep stream is on this or the other side of each island, &c.

3. I shall be greatly indebted by your complying with the request contained in this letter in time to enable me to dispose of this matter before I leave for England; otherwise I fear it may be postponed indefinitely. Already great and apparently unnecessary delay has been allowed to occur in its disposal.

4. To enable you better to understand what is required, I send herewith copies of Mr. Gardiner's reports received with your No. 460 of the 20th December 1870. I confidently look to you for a clear and intelligible map; the want of this has, more than anything else, delayed the decision of a number of questions which otherwise in themselves contained nothing difficult of solution.

No. 712, dated 21st December 1871.

From—Lieutenant-Colonel C. H. HALL, Deputy Commissioner, Amritsar,

To—The Offg. Commissioner, Amritsar Division.

I HAVE the honor to submit the map called for by you in your No. 321-1306, dated 1st November 1871. As directed, a tracing of the map received with your letter under acknowledgment was made, and on it has been shown the present position of the river and the tract of land in regard to which there are doubts and disputes.

2. The present position of the river has been marked on the map in dark blue. The old bed has been left light blue. Not one of the islands alluded to in former reports remains. They have all been joined on to the main land on either side.

3. As I have been along the banks of the river the whole way, crossed it to inspect Chak Sirkár, have tested the accuracy of the new survey made, and have found the whole aspect of the cases changed since Mr. Gardiner, Assistant Commissioner, submitted his report, I venture to give my opinion on each :—

I.—Chak Sirkár is no longer an island; it is joined on to the main land of the Rája of Kapurthala's territory; and the main stream flows clearly defined between it and British territory.

It formed no part of any estate on either side, but was thrown up as an island from the bed of the river in 1860, and was declared to be the property of the British Government. The original case in which this order was passed is in the Financial Commissioner's office.

The Rája of Kapurthala claimed Chak Sirkári on 24th March 1868. Extra Assistant Commissioner Agha Kalb-i-Abid Khan Bahadur dismissed the claim with the exception of 93 ghumaos of land, which were asserted to have been previously lost by diluvion from Chak Behári pur. The Rája again claims Chak Sirkári as it is now entirely attached to the main land on the left bank of the main stream of the river Beás. Up to this year, and during the time Chak Sirkári has remained in our possession, although the main stream shifted from the right bank to the left and back, it has always been an island. Now it is no longer so. The "deep-stream rule" has always been in force on the Beás.

This land formed no portion of any estate previous to its appearance from the bed of the river, and I am of opinion that from its present position the Rája of Kapurthala has every right to claim it, and that his claim will have to be admitted.

II and III.—Chaks Desal and Chirághpur. Adjoining the boundaries of Mauzás Dárapur, Kerishail Kerí-badul and Jalálabad a large area of land has been recovered from the river, the main and only stream of which flows beyond it, and divides it from Kapurthala territory.

The areas on measurement were found to be as follows :—

Village.	*Area transferred from other side.*			*Alluvial land.*		
	A.	R.	P.	A.	R.	P.
Darápur	253	5	10	236	4	18
Kerishai	104	6	19	68	3	3
Kerí-badul	239	3	10	71	1	17
Jalalabad	277	6	12	96	6	2

On testing the transferred areas with the field maps on the spot, I found that these lands, now recovered and joned on to the boundaries of the respective villages, originally formed part of their areas. As the "deep-stream rule" prevails, and as in this case it is not only deep stream but the sole stream which divides the land which has accrued to this side from Kapurthala territory, there can be no doubt that each of the four villages named is entitled to such a portion of this land as lies immediately opposite to it and adjoins its boundaries. As these lands were bodily taken over to the Kapurthala side in 1866, and according to deep-stream rule were considered to have accrued to that State notwithstanding the claims of the people on this side who identified their lands, the same rule must be considered to hold good now. Even adding the transferred and alluvial areas to these four villages does not complete the areas they are shown by the field maps to have possessed at last settlement. These appear to be the very lands which, going across the river in 1866, were formed into Chaks Desal and Chirágpur or attached to them. No island of Mudna exists.

4. I may take this opportunity to remark that, while crossing in a boat from Chak Sirkári to Vairowál ferry, the Tahsíldár of Sultánpur made enquiries relative to the criminal jurisdiction of the Rája of Kapurthala in Jhoogián, Dográn and Raieán. My reply was to the effect that, if no prohibitory orders had been issued, of course criminal jurisdiction followed the Rája's proprietory and revenue rights in these villages. There is no reason whatever why these villages, which are in the Rája's territory, and of which he is the proprietor and receives the whole revenue, should not be in his jurisdiction. No orders have up to this date been issued for or against the Rája's assuming jurisdiction.

No. 643, dated Lahore, 15th May 1872.

From—Lepel Griffin, Esq., Offg. Secretary to Government, Punjab,

To—The Offg. Secretary to Financial Commissioner, Punjab.

I am desired to acknowledge the receipt of your letter No. 398, dated 22nd April, regarding the claim of the Rája of Kapurthala to certain lands situated on the river Beás. With regard to the first two cases mentioned by you, there appears to be no doubt or dispute, and in the decision at which the Financial Commissioner has arrived the Lieutenant-Governor concurs.

2. The third case regarding the lands known as Chak Desal and Chirághpur a misapprehension seems to have arisen, which most materially affects the decision of the case. His Honor the Lieutenant-Governor understands the general rule is that land formed by gradual accretion is subject to the same jurisdiction as the land adjoining which it is thrown up; while land bodily transferred by avulsion remains under the same jurisdiction as before.

3. The real question at issue in this case is whether the lands, the subject of dispute, were the subject of gradual accretion or of avulsion. This point must decide the question of jurisdiction; for the mistake as to the jurisdiction of the land adjoining which the disputed lands lie materially affects the case; for the question of jurisdiction would not have arisen at all had the disputed lands been taken from the Rája of Kapurthala's estate on one side of the river and added to his estate on the other. But, the lands having been transferred and joined to British territory, the question of the manner of their transfer becomes all important. *Primâ facie* the jurisdiction lies with the Kapurthala State, and not with the British Government; for the only officer who visited the spot, Mr. Gardiner, asserts that the transfer of the land was bodily from the Kapurthala side of the river by avulsion; while the Kapurthala authorities assert that this avulsion can be distinctly proved by the fact of numerous trees and wells being still visible on the transferred land.

4. This would probably decide the case, and is a mere issue of fact, which can be decided without difficulty. The Financial Commissioner should so direct that the Deputy Commissioner of Amritsar should himself visit the spot in company with some of the Kapurthala officials, when the case can be decided upon its merits.

No. 4624, dated 24th June 1872.

From—W. M. Young, Esquire, Officiating Secretary to the Financial Commissioner, Punjab,

To—Major-General R. G. Taylor, c.b., c.s.i., Commissioner and Superintendent, Amritsar Division.

I am directed to forward copy of a letter, No. 643, dated 15th May, from the Secretary to Government, Punjab, and to request that enquiry may be made on the point noted in para. 3 of that letter, *viz.*, whether Chaks Desal and Chirághpur were formed by gradual accretion or by avulsion.

2. I am to point out that besides the misconception pointed out in Colonel Hall's No. 69, dated 21st February 1872, Major Davies appears also to have misapprehended the evidence as to the mode in which these chaks were formed; Major Davies states at para. 5 of his No. 2-15, dated 3rd January 1872, that from Mr. Gardiner's reports, submitted after personal inspection in 1870, it would seem that they were transferred bodily from the Kapurthala side.

3. The report of Mr. Gardiner received with the letter above referred to contains no mention of Chaks Desal and Chirághpur; indeed it would appear that the action of the river by which they were attached to British territory did not take place until the following year.

4. The letter of the Deputy Commissioner of Amritsar, No. 712, dated 21st December 1871, is not sufficiently clear on the point regarding which infor-

mation has been called for from Government, and until this is finally set at rest no conclusion can be framed regarding the revenues of these tracts.

5. The orders of Government regarding Chak Sirkár and Munda Island should be at once carried into effect.

Copy of a Docket No. 324, dated 17th December 1873, from Major-General R. G. TAYLOR, C.B., C.S.I., Commissioner and Superintendent, Amritsar Division, to J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab.

In reply to No. 4624, dated 24th June 1872, forwards, for information of Financial Commissioner, copies of letters noted in margin. The report referred to is that called for by Government regarding Chirághpur and Chak Desal transferred by river action from the Kapurthala to British territory.

Copy of Deputy Commissioner, Amritsar's No. 322, dated 13th December 1873, to Commissioner, Amritsar Division.
Copy of Comissioner's reply No.—dated 17th December 1873.

Copy of a letter, No. 322, dated 13th December 1873, from Colonel C. H. HALL, Deputy Commissioner, Amritsar, to Major-General R. G. TAYLOR, C.B., C.S.I., Commissioner and Superintendent, Amritsar Division.

REFERRING to this office No. 13, dated 10th January last, I have the honor to state that the lands known as Chaks Desal and Chirághpur were considered as an accretion to the villages of Kirri Shahi, and Darapur in the British territory, and entered so in the alluvion and diluvion statement for 1872-73 in Nos. 6 and 7 of the Tarn Táran Tahsil to which sanction was accorded in your office No. 183, dated 30th July last, and Secretary to Financial Commissioner's No. 4887, dated 18th July 1873. The jama of these lands was assessed as follows:—

	Rs.	a.	p.
Kirri Shahi	106	0	0
Darapur	265	0	0
Total Rs. ...	371	0	0

As, however, no final orders have been received from your office regarding these lands, and they are still in the possession of the Rája of Kapurthala, the zamíndárs of the above villages cannot be called on to pay the revenue assessed on these lands.

Copy of a Docket No.—dated 17th December 1873, from Major-General R. G. TAYLOR, C.B., C.S.I., Commissioner and Superintendent, Amritsar Division, to Colonel C. H. HALL, Deputy Commissioner, Amritsar.

In reply to his No. 322, dated 13th instant, sanctions the suspension of the demand of Rs. 371 pending the decision of the question regarding the proprietorship of the lands referred to, which is under report. Commissioner hopes he will be shortly able to dispose of the matter.

Copy of a letter, No. 153, dated 20th April 1877, from H. E. PERKINS, Esquire, Commissioner and Superintendent, Amritsar Division, to J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab.

I. Case connected with lands of villages Chamba and Kambo.
II. Case connected with Mand Munda.
III. Case connected with Chaks Desal and Chirághpur.
IV. Case connected with lands of villages Brahewál and Habibwáli, &c., in Kapurthala territory, and Bhol, Khappura, Bulhurwál and Mori Bhuchāon in British territory.

I HAVE the honor to submit for orders the four cases noted in the margin, wherein the Kapurthala State, and the zamindárs of British villages are at issue concerning lands in the bed of the Beás. The first of these cases was decided by Major-General Taylor, Commissioner, more than a year ago. His judgment in it was printed. The other three have only been now decided. In regard to No. II he has written a letter of instructions to Deputy Commissioner, Gurdáspur, of which I send a copy for Financial Commissioner's approval, because from the note appended to it General Taylor manifestly contemplates that the case should go before Financial Commissioner, and in respect of the two last he has written a letter to you, a copy of which is appended hereto. Lest confusion should hereafter arise, I submit the whole four cases, ere issuing as authoritative rulings that which General Taylor has written. I do this because he seems to have intended such a course, though I am not aware whether it was necessary to do so, as your Book Circular I of 1874 does not enjoin it.

No. 545, dated Lahore, 4th June 1877.

From—J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab.
To—The Officiating Secretary to Goverment, Punjab.

WITH reference to your letter No. 643 of 15th May 1872, I am directed to forward copy of a letter from General Taylor, Commissioner of Amritsar, which has been received from the present Commissioner of Amritsar, as a reply

to the above reference relating to the proprietorship and jurisdiction in Chaks Desal and Chirághpur on the Beás river.

2. In further elucidation of the case, a copy of General Taylor's printed judgment of 11th March 1876, in the case of Belás Chamba and Kambo, is also forwarded.

3. The Financial Commissioner is of opinion that these and two other similar cases decided by General Taylor should have been heard as civil suits for proprietory right, and not as miscellaneous revenue cases, as they are headed. No appeal, however, has as yet been preferred to the Financial Commissioner from these decisions of General Taylor.

4. On the question of jurisdiction between States, the Financial Commissioner is of opinion that the Kapurthala State should have jurisdiction in whatever land is decided to belong to it, irrespective of the side of the river on which that land may be situated.

From—Major-General R. G. TAYLOR, C.B., C.S.I., late Commissioner and Superintendent, Amritsar Division.
To—The Secretary to Financial Commissioner, Punjab.

I BEG to refer to your letter No. 4624, dated 24th June 1872, and its enclosure, No. 643, dated 15th May 1872, from Lepel Griffin, Esquire, to your address.

I also beg to refer you to your letter No. 398, dated 22nd April 1872, to the address of the Secretary to Government, Punjab (paragraph 6).

2. In your letter No. 4624, dated 24th June 1872, above alluded to, you asked me the question as to whether Chaks Desal and Chirághpur were formed by gradual accretion or by avulsion.

3. I could very easily have replied to this query by saying partly by accretion and partly by avulsion, which I think is clearly the true state of the case; but it was impossible not to see and feel after an inspection of the locality that any decision which gave away the land under dispute to Kapurthala must be a mistake and an injustice to our own subjects. In fact, I entirely concurred in the opinion expressed in the 6th paragraph of your letter No. 398, dated 22nd April 1872, to the address of the Secretary to Government.

4. I now send the following papers to elucidate the matter:—

First four maps or sketches--

A.—A map made by one of our best patwáris, Rám Chand.

B.—A map put in by the Kapurthala Settlement Officer.

C.—An eye sketch made by myself on the spot.

D.—A map made from the eye sketch and the information supplied by A. and B.

E.—A joint statement of the antecedents of the case put in by Jamál-ud-dín, the Kapurthala Settlement Officer, and Rám Chand, patwári, showing that they agreed on the general facts of the case.

It will also be seen by a comparison of the Kapurthala map and that made by Rám Chand, patwári, that there is no material difference in their statements of facts.

The result is that it will be seen that, in this case as in so many others under the deep-stream rule, the lands under dispute had changed hands over and over again.

The mistake lies, or the point where I consider the Kapurthala officials at fault is, where they take for granted that, because in the midst of this chopping and changing caused by the uncertain action of the main stream the rule of the river has been changed, and recognizable lands subsequently cut off by avulsion are thenceforth to remain the property of those who owned them before the avulsion, this will give them undisputed right to all lands thus cut off henceforward with regard to which recognition can be established.

In the present case it is shown that the land had become the property of whichever side the deep-stream threw it upon. In Sambat 1918 it was on the Kapurthala side, in Sambat 1919 and up to the end of 1922 it was in the hands of the Mánjha zamindárs. In Sambat 1923 the land went back to Kapurthala and remained in the possession of the State up to 1926.

In Sambat 1927 the river again changed its course and the village sites of Chirághpur and Mand Desal went over to the British side; but the tracts being in recognizable form and the rule of the river having been changed, the Kapurthala State claimed to remain in possession, and it is here that I join issue with them. They expect the matter to be decided on the antecedents of a couple of years, that as they were in possession two years back and the land now torn away bears signs and marks showing it to be theirs or the same which they had lost, they should be put in possession; but I object to this on the ground that Circular 3, dated 24th January 1874, lays down that the year 1860 shall be the basis for a decision in these cases, and in other rulings by the Chief Court it is provided that each case be decided on its merits.

Now, in this case of the lands of Chaks Desal and Chirághpur, which are now on the right bank of the deep stream of the river, it is a fact that it would be anomalous and unfair in the extreme to the best of my judgment to make them over to the Native State that owns the opposite bank of the river. This Mand Desal and the Chirághpur land which is joined to it is thrust up close under the high bank on one side of the river—a position such as in my opinion nothing but continuous occupation since annexation could justify our according to the Native State. I have shown—and it is in fact clear from the statements of the Kapurthala officials themselves—that there has been no unbroken occupation of the sort. On no account then would I advocate this very important tract of land being given away. Though of little importance to a stranger it is of course deeply important to the villagers on our bank, as the tract lies so clearly under our bank. If this were taken away they really could not set foot in the river bed—an anomaly which it must be clearly understood from a perusal of my decisions in the cases of Chamba and Kambo *versus* Jamawála, and of Munda *versus* Partáb Puráh, Karím Bakhsh, &c., is a result which I could never advocate. As one of the simple principles which I advocate in deciding these cases is that the villages on either bank be considered as a rule entitled to half the river bed in front of them, I should never therefore naturally consent to a decision which gave either side the possession of lands lying close under the village sites of their rivals.

I feel quite certain that if the case was reversed and it was our zamíndárs who were claiming belás nestled in under the Kapurthala bank, I should feel exactly the same repugnance to yielding to their wish, however strong the case might appear, as I consider the result thus brought about to be incongruous and mischievous.

The lands under dispute in the present instance were included in the areas of the villages on the right or British bank at settlement.

They are further so distinctly belás appertaining to the right bank as to make it an obviously strained and unfair act to give them away to the Native State on the left bank.

Wairowál already holds part of the bela, and the lands of the British village of Kirri Bodal march with the upper end of the bela, making it an anomaly that Kapurthala should hold a portion of his bela wedged in between the Wairowál lands on one side and the Kirri Bodal lands on the other.

I must not be supposed to act or write in a spirit of senseless opposition to the interests of the Native State concerned. I am quite certain that I have no prejudice in the matter, and that, *mutatis mutandis*, I should be as eager to see fair play done to the Kapurthala State as I am now to protect the interests of our own villagers and secure them a fair share of the river bed belás so important to them for grazing cattle, &c.

My opinion then is that, although a portion of the land which now lies on the right bank of the deep stream is undoubtedly recognizable as having lately been attached to Chirághpur, still that, taking the basis of 1860 and treating the case on its merits, this land, which only a few years back passed to Kapurthala by the deep-stream rule, is the right of the villages of the British bank, which lost large portions of their settlement area by the action of the river in the last ten or twelve years.

I feel certain that this decision is just, and believe that its general fairness is allowed by the Kapurthala authorities who were present with me on the spot. All they appeared to wish and stipulate for was that the same rule should be applied without partiality to all cases that may occur.

PLAN OF MAND DESAL AND CHIRÁGHPUR, BELONGING TO PARGANA DHILWAN, IN THE KAPURTHALA STATE, COMPILED ROUGHLY FROM THE KISHTWAR SHAJRAS, FROM SAMBAT 1919 TO 1932.

Map of the various river changes from the beginning of Sambat 1918 to Sambat 1932.

***River bed in Map* I.**—When in Sambat 1918 the river ran in bed No. I at that time the rakba of this Mand Desal was on the Kapurthala State side.

II.—In Sambat 1919 the river adopted the bed No. II as shown in the map, and thus the rakba of the Mand went over to the Mánjha side, and until the end of Sambat 1922—according to the terms of the *kishtibanna* rule—the Mánjha zamíndárs, &c., remained in possession of it.

1.—In Sambat 1923 the river again came into Channel 1, and the whole of the tract which had been previously transferred came back to the Kapurthala State, remained with it up to 1926, the river remaining in Channel 1.

2.—In Sambat 1927 the river went over to Channel No. 3, and thus the village sites of Chirághpur and Mand Desal went over to the Mánjha with the tracts attached to them in recognizable form, and since in the interim the orders of the Chief Court for the establishment of the principle of *rúkh-gardani* had been promulgated the zamindárs of the Kapurthala State have remained in possession.

3.—In Sambat 1932 the river threw itself into No. 2, and thus Chirághpur with a portion of its lands came over to the side of the State. The rest of the Chirághpur lands are on the Mánjha side of the river together with those of Chak Desal, and according to the *rúkh-gardani* rule the Kapurthala State is still in possession.

Opinion in the case of Chaks Desal and Chirághpur.

In the case of the claim of the Kapurthala State to Chak Desal, I am clearly of opinion that the right to the bela in question rests with the villages of the right bank and decide accordingly; detached memorandum will be furnished to the Financial Commissioner, with whom the final decision rests.

In the same way, I am of opinion that the portion of Chirághpur, which is now on the right bank of the main stream, being part of the former area of the British villages on the right bank, should be considered to belong to them. Full grounds for this opinion are given in the subjoined memorandum; also an eye sketch map made on the spot in presence of the Kapurthala and Government officials and zamíndárs is supplied.

NOTE.—The subjoined letter to the Secretary to Financial Commissioner stands in place of the memorandum promised above.

IN THE COURT OF THE COMMISSIONER AND SUPERINTENDENT, AMRITSAR DIVISION.

Appellate Side.—Miscellaneous Revenue Case No. 17 *of* 1873.

Alha Singh, Budh Singh, Lakha Singh and others, zamíndárs of Chamba and Kambo,

Tahsíl Tarn Táran, Zilla Amritsar, *Appellants*, VERSUS Government, *Respondent*.

Appeal from the order of Colonel C. H. Hall, Deputy Commissioner, Amritsar, dated 7th January 1873, decreeing possession of bela land thrown up by the river Beás in favour of zamíndárs of Kapurthala territory.

Claim.—Possession of bela land thrown up by river Beás.

JUDGMENT.

THIS is an appeal from the zamíndárs of Chamba and Kambo, two villages in the Tarn Táran Tahsíl, against the order of the Deputy Commissioner of Amritsar, by which certain river bed lands which had come back to the British side of the river by a sudden diversion of the deep stream had been made over to Kapurthala under the operation of the new law applicable to such cases.

It appears that in November 1872, corresponding with Sambat 1929, Dulla Singh, Atar Singh and others, zamíndárs of the village of Chamba, put in a petition to the effect that a tract of land, which had been long in dispute between themselves and the Kapurthala zamíndárs of mauzás Jámawála, Gámawála, Guda, &c., and which had passed over into the hands of the Kapurthala zamíndárs by gradual decrement, had by a change in the river's course now come back to their side; and they claimed to be put in possession.

The Deputy Commissioner's order on the above petition is dated 19th November 1872, and calls for a report from the Tahsíldár.

The Tahsíldár reported on the 22nd November 1872 that the tract of land in question had come over to the side of the Government villages of Chamba and Kambo by *rúkh-gardáni*, *i. e.*, a distinct change in the course of the river; that in fact the tract lay between two streams, the deepest of which flowed on the Kapurthala side of the river. The Tahsíldár, therefore, wrote that under the *kishti-banna* custom, if still prevalent, the zamíndárs of Chamba and Kambo would have to be put in possession of the land; but that, on the other hand, if the rule of *rúkh-gardani* were to be considered in force, it would remain with the Kapurthala zamíndárs, or as Government should rule in the matter. The land had passed over to the Kapurthala side in past years by gradual decrement, and had now come bodily back to the Government side. While with Kapurthala, the lands had formed parts of the area of the villages of Gámawála, Jámawála, and Guda, in that territory. According to frontage *(mahazwár)* the land should fall to the villages of Chamba and Kambo; he had therefore had measurements effected *mahazwár*, *i.e.*, according to frontage, and had prepared a *goshwára* statement of the whole of the area to facilitate a division according to frontage, should the Deputy Commissioner desire to be guided by that principle.

In case of the land being made over to the Government villages of Chamba and Kambo, the Tahsíldár showed that Chamba would have to pay revenue on the lands received to the extent of Rs. 657, and Kambo Rs. 71.

The Tahsíldár's report went to Agha Kalb Abid for consideration and report. The officer personally inspected the spot, and reported on the 18th December 1872 as follows :—

He stated that, although the river flowed on both sides of the land under dispute, the *rúkh* or tendency of the main stream was more towards the east, *i. e.*, towards the left or Kapurthala bank. He mentioned that the force of the stream was working towards that side; that the boat traffic was in that channel; that the current was strongest in that channel, and that whirlpools existed; in fact, he made it clear that the left channel marked A in the eye sketch sent was indubitably the main stream of the river at the time of his inspection. Agha Kalb Abid went on to say that it was therefore apparent that the alluvial lands, which had during past years gone over to the Kapurthala side by gradual decrement, had now been thrown back to the Government side by a change of the river's course; and that they were the very lands which both at the former and revised settlements were recorded as part of the area of mauzás Chamba Kulan, and Kambo. There being also 406 ghumáos 2 kanáls and 4 marlás of sandy area in excess of what was recorded at the settlement, the Agha considered that that also should be included and made over to the Government villages. The Extra Assistant Commissioner was of opinion that there was nothing,

beyond the standing rabi crops on the cultivated area here and there, which could be considered signs of any old occupation on the part of the zamíndárs of the Kapurthala territory; that there was nothing like the sites of old villages, old trees, wells, &c.; that the general appearance of the land was as of land newly reformed.

There exists indeed a grove of young kikar trees three or four years old. The Government zamíndárs declare that these are of the time when the land was carried away, while the Kapurthala zamíndárs say that they were produced after the land came to the left side of the river by gradual decrement. The Extra Assistant Commissioner was of opinion that these trees could not be taken into account, as they had evidently grown up after the diluvion. He was of opinion, therefore, that as there were no marks of identification to show that the land formerly belonged to the Kapurthala zamíndárs, and as it was clear that the lead was one and the same with that which had gone to the Kapurthala side by gradual decrement, the land in question should therefore as recommended by the Tahsíldár, be given to the villages of Chamba and Kambo, the zamíndárs, of which should recover the produce of the kharíf of Sambat 1929 and rabi Sambat 1930 from the Kapurthala zamíndárs and pay the Government revenue themselves.

* * * * * * * * *

Agha Kalb Abid recommended the Deputy Commissioner to confirm the above propositions.

The Deputy Commissioner, however, Colonel Hall, was of opinion that as the lands had become the property of the Kapurthala State by gradual accretion during several years, and had now been thrown bodily to the Government side by avulsion, having on them kikar trees capable of identification, therefore on the principle laid down, and which governed such cases, there could be no doubt that these lands were still the property of the Kapurthala State. This order was dated 7th January 1873.

Against the Deputy Commissioner's order above quoted the zamíndárs of the Tarn Táran villages appealed on the 21st of February 1873.

The grounds of appeal were as follows :—

(1). That the Extra Assistant Commissioner had inspected the spot and had given an equitable opinion on the case; but when he sent up the case to the Deputy Commissioner for confirmation of the proposed rate of assessment an upsetting took place, for instead of dealing with the question of jama rate the Deputy Commissioner had deprived them (appellants) of the land altogether.

(2). The Chamba Kalan area was recorded as amounting to 2,547 ghumáos 1 kanál and 14 marlás at the last settlement; of this 1,902 ghumáos 2 kanáls and 5 marlás were carried away subsequently to both settlements. This land had now been thrown up again on their side, and they claimed it accordingly.

Again, of the 2,072 ghumáos 5 kanáls 5 marlás area of Mauza Kambo, 620 ghumáos 1 kanál 1 marla were carried away; thus the two villages together had lost 2,522 ghumáos 3 kanáls and 6 marlas in all, and now they had regained it by a sudden change in the direction of the river (*rukh-gardáni*). The whole amount thus restored amounts to 2,928 ghumáos 6 kanáls, and appellants claimed it; there was only an excess of 408 ghumáos 2 kanáls 14 marlás.

Appellants went on to state that the *kishti-banna* rule was the one in force; that the tendency of the waters of the river should be had regard to. If the chief stream ran on the other side, *i. e.*, under the Kapurthala bank, then the land on this side of the deep stream could not become the property of the Kapurthala zamíndárs. Of course if the deep stream should flow on this (*i. e.*, the right) bank and land be thrown up on the other side, then appellants would abide by the will of God in the matter; the land would become the property of those to whom it would fall under the *kishti-banna* rule.

The Deputy Commissioner had no power to give away to others the property of appellants which had been recorded as such in both settlements. The right of the appellants is further clearly demonstrated by the Extra Assistant Commissioner's decision. The *kishti-banna* rule should be followed, the revenue being taken by either the British Government or the Kapurthala State.

In Sardár Dewa Singh's case the Financial Commissioner has on a previous occasion upheld the *kishti-banna* rule, and the revenue has thereby fallen to the British Government.

On first hearing the appeal I recorded an interlocutory proceeding, which I only allude to briefly here to give it its place in the history of the inquiry; but it was not based on a full comprehension of the subject, and is therefore of no practical utility. The proceeding in question was dated 1st March 1873, and I sent a copy of it to the Kapurthala State in order to elicit the views of the Ministers of that State on the points of difficulty which I propounded. The reply of Ishar Dás, Collector, to my rubkári is in the file: it is dated 18th Cheth, Sambat 1929. It is mainly an endeavour to show that the new rule should work equally for both parties, and combating my view that under existing circumstances it was likely to be especially unfair to the villages on the right bank. My suggestions had been rather given at random in order to ventilate the difficulties of the case, and

therefore Ishar Dás's reply is also somewhat discursive and unpractical. We subsequently on the spot understood each other very fully regarding the character of the above difficulties and their remedy.

On the 5th December 1873, the Deputy Commissioner of Amritsar forwarded a report from the Tahsíldár of Tarn Táran, dated 18th November 1873, to the effect that on the 1st November 1873 he had gone to attest the measurements of the alluvial lands at Mauza Chamba, and found that the zamíndárs of villages Mundewál and Jamawál, belonging to the Kapurthala territory, with their Tahsíldár, had assembled on the occasion; that since the previous year the river had removed to the Kapurthala side, and the lands thrown out on the right or Government side were still in possession of Kapurthala zamíndárs, regarding which an appeal was pending in the Commissioner's Court. The Tahsíldár went on to say that the zamíndárs on both sides were unanimously desirous to fix a well-defined boundary between their lands irrespective of the deep stream of the river, but that as the fixing of a boundary was somewhat contrary to the rules issued by the Chief Court, Punjab, he (the Tahsildár) solicited orders in the case.

It was not easy to give these orders until the whole subject should be fully comprehended. Chamba was only one of a number of cases in which the same difficult points, occasioned by the first working of the change in the rule of the river, which had hitherto been the *kishti-banna* or deep-stream rule, were turning up, and it was useless to decide an isolated case on its merits, as it were, until a rule and system for the application of the new mode of decision prescribed had been laid down.

I made several earnest attempts to clear the matter, visiting the whole line of the river with that object; but my effort was not successful on the first occasion. I have now again in March 1876 visited all the sites of the quarrels between our villages and those of the Kapurthala State, and proceed to give the result in the case of Chamba and Kambo on one side and Gamawála, Jamawála, &c., on the other.

The reports and opinions I had received may be summarized as follows :—

The Tahsíldár noted that the whole area thrown back to the British side by the change of the river's course had originally formed part of the areas of the villages of Chamba and Kambo, having been measured with the lands of those villages at the settlements, but that for some years past they had been with Kapurthala; and he seems to imply that there could be no doubt of their identity. If then the *kishti-banna* or deep-stream rule were adhered to the lands were the right of our villages. If, on the contrary, the *rukh-gardáni* system, by which, if lands are carried away by avulsion and are recognizable, they are to remain as before the avulsion in the hands of the same owners and under the same jurisdiction, &c., was to be the rule, then the lands in dispute would remain with Kapurthala.

Agha Kalb Abid, Extra Assistant Commissioner, visited the spot, and his view was to the effect that the lands had undoubtedly formed part of the areas of Chamba and Kambo in both settlements, and had by gradual decrement passed over to the Kapurthala side. Now, however, by a sudden change in the river's course these lands had come back to the British side, and as he (the Agha) was of opinion that there were no prominent points of identification by which Kapurthala could claim that the lands were recognizable, such as village sites, wells, old trees, &c., he threw aside all claim based on recognition; and gave his opinion that the whole area thus recovered should be restored to the villages of Chamba and Kambo, which villages had lost about an equal area from their village lands as recorded at settlement. The Agha had, however, mentioned that there were some kikar trees, three or four years old, at one spot; but he did not consider these of sufficient importance to establish an identity, and rejected their evidence. It is, I think, implied by the Agha's desire to rebut proofs of identification that if he could have been prevailed upon to admit the proofs he would have considered himself bound by the character of the rules then lately issued in such cases to decide that the land should remain with Kapurthala.

Colonel Hall differed from Agha Kalb Abid Khan, as he considered the kikar trees mentioned by the Agha as sufficient ground of identification; and was of opinion that Kapurthala having acquired the land by accretion through a course of years, and the land having now come back to the British side bodily by avulsion, that as the land was recognizable it must remain with Kapurthala.

I do not know whether this order was given after having seen the tract under dispute or not. I should conjecture that the Deputy Commissioner had not in this instance personally inspected the state of affairs between our villages and those on the opposite bank, because I believe that on the spot every one must have been affected by the view of the case which pressed on me.

The opinions of the above three officers were given on the first rulings of the Chief Court in the cases of Yusaf Gela and Jíwan, Plaintiffs, Appellants, *versus* Sardár Dewa Singh, Defendant, Respondent. This case is No. 12 of the 2nd of February 1870 in the *Punjab Record*: also Rámah, Plaintiff, Appellant, *versus* Sher Singh and Jhanda Singh, Defendants, Respondents, No. 15 of 26th February 1872 of the *Punjab Record*.

In these decisions, although it was laid down that both in cases of avulsion and gradual decrement regard was to be had to the merits of the case and to existing customary law, still no period was fixed as a basis for inquiry, and this led to officers dealing with the facts and occurrences, perhaps of the current year only, without any attempt to ascertain the antecedents of the matter in dispute.

Circular No. 3 of the 24th January 1874 of the Financial Commissioner's Office had not then been issued. This laid down a distinct period—namely, the year 1860—which should be "the basis of decision, subject to such modifications as under the operation of the rule regarding gradual accretion or erosion will have to be made." This established an equitable ground work for the decision of each case, which was what was wanted.

Before, however, the above safeguard had been authoritatively fixed, I had felt, both in this case of Chamba and in others, that our officers were too much inclined to act implicitly and at once on the letter of the Chief Court's decision, which of course completely upset the previously existing custom of *kishti-banna* on the Beás river, without having due regard to the principle which I observe to have been advocated by all the best informed and most weighty authorities who have written on the subject. I allude to the view that in these at times complicated and difficult cases regarding boundaries in river bed lands, each individual case should be liberally dealt with on its merits. The decisions of the Chief Court above alluded to fully preserved this principle.

Clause IV of Regulation XI. of 1825 is really the basis of the Chief Court's ruling for these cases, and the fifth section of that clause runs as follows :—"In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this regulation, the courts of justice in deciding upon such claims and disputes shall be guided by the best evidence they may be able to obtain of established local usage if there be any applicable to the case, or, if not, by general principles of equity and justice."

Established local usage on the Beás had been the *kishti-banna* or deep-stream rule. Villages like Chamba and Kambo, which had been deprived of the whole of their river bed lands by the freaks of the river, awaited quietly the turn of the wheel of fortune, or perhaps the turn of the tide would be a better expression, which should throw the main stream again into a channel on the further side of the river bed and restore to them the whole or a portion of the lands they had lost.

Intermediately we change the rule of the river, and when the long-desired diversion in the direction of the deep stream comes at last, the unfortunate expectants are informed that the lands have been now some years in the hands of their rivals, who have set their marks upon them which are recognizable, and so they must not expect to get them back again, even though the river be gone back to the bed in which it flowed at the time of the settlements. This was the view that these cases presented to me before the issue of Circular 3 of the 24th January 1874, and I felt myself unable to confirm the order which would irrevocably make over to their hereditary rivals in this matter, lands which had been included in both settlements in the area of the two Government villages of Chamba and Kambo, thus making over the whole river bed to the villages on the opposite bank and bringing the jurisdiction of the Native State and the occupation of its zamíndárs and cultivators up to within a few hundred yards of the high bank on the British side of the river. I have called the act irrevocable, because the real fact is that in the bed of the Beás, a river of moderate dimensions, there never can be any real difficulty in recognizing lands in its bed, however much they may be cut about and altered in appearance by the vagaries of the river when in flood. I transcribe the following remarks penned by His Honor the Lieutenant-Governor when Financial Commissioner of Oudh, which are exactly applicable to the case of the Beás belás :—

"At the best, local custom is a rude mode of settlement. It has frequently occurred to the Financial Commissioner that if the exact river boundary of each estate were so laid down by scientific survey as to be capable, with the aid of permanent bench-marks and pillars in the high bank, of subsequent verification, then however great the shiftings and vagaries of the stream, the limits of mauzás need never change, and disputes would at once be settled by reference to the map. A detailed survey of the river always takes place, and if at the time of its being made the mid-stream were by common consent the boundary of properties, it could be fixed once and for ever. Whether this plan in the present state of our establishments would answer in practice is very uncertain, and it is only referred to by way of suggestion."

Whatever may have been the case with the Oudh river alluded to, I am quite certain that the system thus suggested could be fully carried out in the bed of the Beás, where as you stand on one high bank you have the whole of the belás in the river bed mapped out beneath you, and can even make out most of the details of the belás and bet lands lying close under the high bank on the opposite side.* Let my eye sketch be referred to, and I would ask could any one suppose that if the inquirer were to take his stand at Chamba on the high bank he could have any doubt about the identity of Bela II, or that an inhabitant of Jamawála would be at a loss to describe the position and dimensions of Bela I, whatever tricks the river might play with its form and appearance during the floods.

My meaning, in speaking of the act of making over these lands as irrevocable, therefore, is that, if surrendered now to the Kapurthala villages, Chamba and Kambo would never see them again; the lands could not return to them by accretion, and no change in the main stream of the river could give the British villages a better claim to share in them than they have now.

* In fact the arrangement made need not be as elaborate as described by Sir Henry Davies. Angles taken from permanent points on the solid banks aided by the patwáris' maps, which are always made directly a tract of land has come into the possession of a village, would always be found sufficient to enable an officer inquiring, to ascertain to what village the land had belonged before the river's violent action in flood had altered its appearance.

The view that I urge therefore is that, since the Chamba and Kambo people lost the lands when the river came over to the right bank, and because, had the rule of the river remained unchanged, they would have recovered the lands now that the river again runs under the left bank, it is fair, I think, at this juncture, in place of giving either side the sweets of both systems, to the exclusion of their natural rivals, to endeavour to ascertain, as far as may be, the genuine rights on each side; that is, virtually to examine and decide the case on its merits, taking the year 1860 as laid down as a basis for the decision.

The Kapurthala officials who accompanied me, headed by Ishar Dás, Collector, a very intelligent, calm judging man, were quite willing to allow the justice and fairness of the above view. All that they were anxious for was a recognized system by which all cases that might arise might be disposed of by rule and without fear of collision between the zamíndárs of the villages on both sides, whose interests are naturally opposed to one another, which is often likely to occur when a case arises merely from there being no general system for dealing with such cases in a preliminary way, pending final and authoritative decision. I will notice this point at the conclusion of this report.

I proceed now to give the result of my own inquiry on the spot, and to note the character of my decision.

* * * * * * *

The following account of matters was agreed to by all present:—

The deep stream of the river at first (*i.e.*, as I understood it when the matter first came under inquiry after we had obtained possession of the country) ran on the Kapurthala side of the river (in Channel A of the sketch map). This was the case up to Sambat 1919 (corresponding to 1862-63). In Sambat 1920 (1863-64) the deep stream adopted Channel B, and thus Bela I of the sketch map was cut off from the Chamba lands.

Up to the above year both sides allow that Bela I was in the lands of the village of Chamba. After Sambat 1920 the river continued to work over towards the right bank of the river bed, gradually throwing up sandy tracts on its own left bank, until it arrived in C, which became the deep and navigable stream in Sambat 1928 (corresponding to our year 1871-72). In 1929 (1872-73) the river went bodily back again to Channel A, and then the Tahsíldár reported in the kharíf of 1872 that the river had thus gone back to its old channel, and he wished for orders as to how the matter was to be treated.

Bela II was originally part of the Chamba lands, and came under measurement as such in both settlements.

Bela I only came under measurement in our first settlement, Mr. Blyth's, in 1851-52. The second settlement was in 1864-65, corresponding with Sambat 1921-22. In the measurements for the second settlement Bela II is alone entered, Bela I having gone to the Kapurthala side in Sambat 1920, corresponding with 1863-64.

After Sambat 1920 the river worked across through Bela II and threw up sand, first on its left bank; then after a time, as is customary, a little soil began to collect upon it. The Kapurthala officials say that land formed and that it was measured and assessed; that this occurred in Sambat 1927-28, corresponding with 1870-71.

On the other hand, our tahsíl officials measured the land in the kharíf of Sambat 1929, the result being 2,233 ghumáos 6 kanáls 2 marlás; but this includes both Belás I and II.

The Kapurthala Tahsíldár, Jamál-ud-dín, states the rakba of Bela II at 1,591 ghumáos 5 kanáls and 4 marlás, of which 243 ghumáos 5 kanáls 2 marlás were *málguzári*. and ghumáos 1,358-0-2 sandy tract. The jama fixed on the above he mentioned at Rs. 492, This cultivation was carried on, he stated, by the zamíndárs of Gamawála and Jamawála. The name given to the tract of land was Singhpura.

The Government officials declare that this account of matters is not genuine; that nothing of the sort occurred on the land. I confess that after examining Bela II, my opinion is that there is no appearance whatever of cultivation having been carried out upon it of late years. In answer to this objection of mine, the Kapurthala officials state that there had been no cultivation on land since 1930 (1873 A. D.), *i.e.*, since the river went over again to the left bank. It is quite possible that there may have been cultivation on the land previous to 1872, although the marks of it have been obliterated by subsequent floods. The point is unimportant, however, as no one contests the fact of the Kapurthala villages having been in possession of all the land on the left bank of the river when it flowed in C, and of course having it in their possession they may have done what they liked with it.

The claim of Chamba and Kambo does not rest on an assertion that the Kapurthala zamíndárs had not made use of the lands while they had them in possession, but upon their old rights according to settlement, and upon the fact that had not the rule of the river been changed the whole of the river bed lands would, according to previous custom, have been restored to them now that the deep stream has again adopted the channel under the left bank of the river bed.

In this dispute, then, between Chamba and Kambo on the Government side, and Jamawála and Guda on the side of the Kapurthala State, I am of opinion that if the basis of 1860 were rigidly adhered to, it would be quite within rule to give both the belás to Chamba and Kambo; but for reasons which I shall subsequently explain I have no inclination to adopt this course. Bela I was included in the lands of Chamba at the first settlement, and remained thus for 10 years, and then it was cut off from the Chamba lands by the deep-

stream adopting the Channel B on the sketch map. This was in Sambat 1920, 1863-64; so that for the last 12 years it has remained uniformly in possession of Kapurthala, and had been thus lost to our zamíndárs 8 years before the cause of the present case arose. I therefore decide to leave Bela I with Kapurthala on grounds which I shall explain further on; Bela II having been included in the lands of our villages in both settlements, and being obviously, from position and propinquity, or as the vernacular local expression is *mahazwár* (*i. e.*, according to frontage), the natural possession of Chamba and Kambo, I am of opinion that it should be made over to those villages, and I decide accordingly.

It is somewhat remarkable that a mistake has crept into the accounts of the previous occurrences in this case—in this way, that in most of the descriptions of the antecedents of the dispute it has been mentioned that the land passed to Kapurthala by gradual decrement; the result of my inquiry on the spot is a belief that this is true with regard to Bela II only. Bela I was apparently cut off by a distinct change in the direction of the main stream of the river from Channel A to Channel B, and I think it probable that, had the present *rukh gardáni* rules been in force at the time when this occurred, Chamba could have claimed and have retained its possession of Bela I; but in those days, when the deep-stream rule was the river law, the main stream having cut off the Bela from the Chamba lands, nothing more was to be said or thought of.

In the case of Bela II it appears that the river gradually slid over from Channel B, gaining ground to the right, season by season, till it landed in C, where it stayed but one year, and then went bodily back to A, leaving the Channel B distinctly defined—in fact a considerable stream—and Bela II quite recognizable, although injured and disfigured by yearly submersion for eight years.

As in the case of Bela I, the villagers on the right bank could make no objection to the Kapurthala zamíndárs gaining gradual possession of Bela II by accretion, as they had previously acquired Bela I by a change in the river's course, because under the *kishti-banna* rule, the position of the deep stream decided the question, and that was undeniably working over towards their bank, and nothing would stay it; they could only resign themselves and hope for a change by and bye which should give them their turn. That change has now come, and they claim a restoration of the lands which they lost by the deep-stream rule in past years; failing that full amount of what they consider justice, they pray that their ancient rights in the river bed may be fairly examined, and an equitable decision between the conflicting claims put forward by themselves and their natural rivals in this matter of the other bank of the river be arrived at.

I have made this case of the appeal of Chamba and Kambo the vehicle for conveying my views regarding these river bed quarrels, partly because it was the first I took up, and partly because its character was simple and the features of the lands in dispute distinct and, therefore, easily made illustrative of the points I wished to explain. The remaining cases all hinge on the same difficulties, and in disposing of them I shall be able to refer to my remarks on this case.

In conclusion, I give my views with regard to the present state of the law as it affects especially the Beás river, and the mode of its application to the difficulties that may arise which I am inclined to recommend.

I will first, in a general way, describe the state of the river bed of the Beás, which is as follows:—

From what has come before me in the cases I have inquired into, it appears that when we first got possession of the country and our first measurements for settlement were made, the set of the main stream of the river was greatly towards the left bank,—the result being that a large proportion of the river bed was included in the areas of the British villages on the right bank, the deep-stream boundary being the rule. My impression is that this state of things lasted for the first eight or ten years, which would have included the year 1860, and that thus if the status of 1860 were reverted to rigidly, the result would be greatly favorable to the zamíndárs of the villages of the right bank and unfavorable to the Kapurthala villages. Of later years, the river has set over to the right bank, and thus in many instances all the belás originally possessed by our villages have, under the *kishti-banna* rule, passed into the hands of the zamíndárs of the villages on the left bank. In this way the present state of things is that the majority of the belás of the river are in the hands of Kapurthala.

The law, as laid down by the two decisions of the Chief Court above quoted, and Circular 3 of the 24th January 1874, I take to be this, namely, that in cases of gradual accretion the land thrown up shall, if such be the local usage (*ba shart riwáj*), belong to the estate which thus acquires it; but in the case of lands cut off from an estate by a sudden change in the river, the severed land being recognizable, it will remain the property of the estate from which it has been cut off; each case to be decided on its merits (*az ru-i-ruedad-i-mukaddama ke faisal hone chhahiye.*)

Both the above vernacular quotations are taken from the vernacular translations of the Chief Court's orders in cases No. 12 of the 2nd of February 1870 and No. 15 of the 26th of February 1872 respectively. I have not the English orders by me at this moment. Financial Commissioner's Circular 3 of 24th January 1874 says:—"In deciding future boundary disputes to which the rule is applicable, reference must accordingly be made to the status of August 1860 as the basis of decision."

I understand from the above that when a case occurs from the river taking a new course, and the land is claimed by those who previously lost it, under the *kishti-banna* rule, such a case is to be gone into and the claim to the land in dispute decided on its merits, due regard being had to the antecedents of the case, and a certain weight being allowed where feasible to local usage, though there is in fact but little room for this on the Beás: the one local usage was the deep-stream rule, and that having been abrogated, there is no local usage to be quoted. But the old rule having been suddenly changed, it is but equitable, I think, that when a change in the direction of the main stream opens up the case of lands formerly lost by a village, it should be allowed to bring forward its claim and have it decided according to the proved features of the case. The procedure I advocate appears to me in accordance with the Chief Court's decisions and the ruling of the Financial Commissioner's Circular No. 3 of 24th January 1874. I know by my late experience that it is easy of application and fully understood by the people. The Kapurthala officials were most reasonable on the point, and fully allowed that every case that could arise would be easily settled in this manner. The following is the simple method which I would propose for the application of the late decisions and rulings and inauguration of the new river law. For it must be remembered that it is the introduction of quite a new law, and one which alters the whole relations of the rival parties. I take it as granted that the villagers of each bank have an equal claim on the river bed. The previous rule of deep stream implied this. The river bed was common property to be gambled for, the deep stream was the roulette ball; no one could tell while the river was in flood into what channel the main stream would settle down at the close of the rains; but if the result was that it ended by running close under a British village on the right bank, or plunged into the *bet* lands and gardens of a Kapurthala village on the left bank, then the whole river bed, if it proved so thus cut off, fell without question or demur to the side on which fortune had declared, and the others could only console themselves with a hope for better luck next time. I am of opinion that the existence of such a system through so many years conclusively proves the equal right of the villages on each bank of the river to share in the river bed lands; and on this ground, I should not be an advocate for going back too rigidly to the status of 1860, as at whatever time the matter is chopped off, injustice must be done to one side or the other. The general merits of the case, with the status of 1860 as a basis, and customary law to act as a make-weight, may sound complicated, but it is easy of application; while rigid rules which read more simply would cause heart-burning, and in some instances serious loss and injustice to imdividual villages.

In the midst of the game of give-and-take, caused by the deep-stream rule, we come in and change the system, and that when perhaps a large preponderance of the counters are in the hands of one side. I see nothing for it in equity under such circumstances than that the pool should be replenished and divided.

As a basis of that division, I would, as above noted, lay down the natural right of each bank to half the river bed, and I would let this rule decide all doubtful cases of unrecognizable mands, belás, sand-beds and the like; but I feel sure that very few such can occur.

It will be understood that I am not advocating a general breaking up of present possessions and a half division of the river bed, or even a partition grounded on the basis of 1860. Either course would cause a great amount of heart-burning and confusion.

No: as long as the deep stream keeps to the channel it occupied when the rule of the river was changed, I would not advocate any steps being taken to redress the losses suffered by adverse fortune under the *kishti-banna* rule, for as long as the river remains on their side and the lands are cut off from them, they are in no worse case than they would have been under the deep-stream rule.

It is when a change takes place, such as would formerly have perhaps restored the whole river bed to them for a time, that I would come in and help both parties to an equitable decision, based on the antecedents of the case, regarding what is really the common property.

It would be unsatisfying, both to the village communities and the officers interested in their welfare, to answer them by saying that in the long run matters would be equalized between State and State, that what one Government lost in one part of the river it would gain in another. To this somewhat selfish view I confess to much preferring a policy based on the principle that each village on the main bank, right or left, has a right to a share in the river-bed lands. I feel certain that this is the true and politic view, and that the contrary course would have cost blood in other days, and would again, if our influence were removed, for what village communities found bearable in the way of the possession by rivals of lands running close up to their village sites, when it occurred under the operation of a mutually accepted rule, would become positively insufferable when the give-and-take rule had been abrogated by authority and no chance remained to the deprived village communities of having their turn again of possession; that, in fact, they had been deprived of their hereditary share of right in the river bed.

Under native rule the anomaly and irritation thus caused would, I feel certain, ere long bear its natural fruit, and years would not efface the feeling of injury suffered.

As I have said before, it is not an arbitrary decision in cases that may occur on the principle of a half and half division of the river bed that I advocate. I expressly desire

to see each case decided on its merits; and what I should be inclined to call the merits of a case would be the power of either side to prove the greatest amount of possession within the previous 16 years, *i. e.*, since 1860, laying especial stress, however, on the last 12 years immediately preceding the suit, which would be within the legal period of limitation.

It is only in doubtful cases, or where the possession has been evenly balanced in the last 12 or 16 years, that I think the element of an equal division of the river bed might with perfect justice and expediency be brought in.

In such cases I would let the greater propinquity to the right bank or left decide the matter. No new law or ruling would be required for this, as such a decision would be, as matters stand, fully in accordance with the clause of Regulation XI of 1825 above quoted, being based "on general principles of equity and justice."

Early in the proceedings the Kapurthala officials put forward the decision of Government contained in letter No. 1455 of the 30th of October 1873, from T. H. Thornton, Esquire, Secretary to Government, Punjab, to the address of J. A. E. Miller, Esquire, Secretary to the Financial Commissioner, by which certain lands on the Sutlej river were made over to the Kapurthala State, which had recently been transferred by avulsion from the Kapurthala to the Ferozepore bank of the river, although these very lands had been previously, in 1857, acquired by the Kapurthala State by the deep-stream rule. But I did not consider that this decision affected my view of the case at all. When a new rule is adopted a period must be fixed for its coming into play; beyond that period anomalies will occur.

In the instance under notice the transfer by deep-stream rule had occurred in 1857. The Kapurthala State was therefore in possession in 1860, and if the lands cut off in 1873 by avulsion were recognizable, there was, under the rulings of Government, nothing more to be said.

All I claim is that the basis of 1860 be acknowledged, and that in each case when the matter is opened up by a change in the river's course the preponderance of right and possession since August 1860 decide the matter. I understood Ishar Dás to have fully comprehended and accepted the above view of the case as fair before we parted, and no further argument was put forward based on the Government letter alluded to.

If the rule I advocate is followed, there will be very little difficulty in settling disputes about the belás in the Beás, as after the first angry feeling has blown off it is not difficult with the parties before one to assimilate the histories given of the various belás by the opposing claimants; and there are settlement maps and patwáris' maps and shajras, and in many cases previous decisions, to help.

I will not encumber the present decision with a proposition for a system by which when debateable land is thrown up it should by mutual consent of the revenue officials on both sides be set aside and not allowed to be seized upon by either side till authoritative decision has been obtained. Such a system it will be easy to organize, when the principal for the decision of all quarrels regarding the river bed lands under the new system has been fully understood by all.

The appeal is accepted, and the Deputy Commissioner's decision modified as follows:—Bela I (see sketch map) is to remain with Kapurthala, Bela II with Chamba and Kambo.

No. 934, dated Lahore, 15th August 1878.

From—J. G. Cordery, Esquire, Officiating Secretary to Government, Punjab,

To—The Secretary to Financial Commissioner, Punjab.

I am directed to return the original memoranda enclosed in your letter No. 545 of the 4th June 1877, and to convey the following orders of His Honor the Lieutenant-Governor on this reference and on subsequent reminders, relating to the proprietorship and jurisdiction in chaks Desal and Chirághpur on the River Beás.

2. The statement of the facts of the case which was agreed to by the Superintendent of Settlement on the part of the Kapurthala State, and by the Kánúngo of the Tarn Táran tahsíl of the Amritsar district, bears date the 26th July 1876. Two seasons have therefore elapsed during which further changes may have taken place in the course of the river, and it will be under these circumstances impracticable for the Government to pronounce authoritatively at the present time upon the sole question in the case which it would be for the Lieutenant-Governor to determine. The case must therefore be again referred to the local officers before it can be finally settled; but the principles upon which such final settlement should take place can now, it is believed, be enunciated with sufficient precision.

3. In the 3rd paragraph of this office letter No. 643 of the 15th May 1872, it was stated that the real question at issue was whether these chaks were the subject of gradual accretion, or of avulsion. The reply of General Taylor states that they were formed partly by accretion and partly by avulsion; but from the statement of the facts above referred to, accepted by the Kapurthala and British subordinates, the inference would be that, however the chaks may have been formed, their transfer from the British to the Kapurthala side of the deep-stream, and *vice versâ*, was by avulsion. In either case the rule of decision seems perfectly plain. The letter of General Taylor, and also his judgment in the case of the belás Chamba and Kambo, which is forwarded to illustrate his position, throughout confuse the two entirely distinct questions of the jurisdiction as between the Kapurthala State and British territory, and the proprietory right of the inhabitants of these riverain tracts. With the determination of the proprietory claims of the various individuals affected, the Government in its executive capacity has no concern at all; whilst, on the other hand, the Government may, if it seems advisable to do so, pronounce upon the point as to whether a particular plot is in British or in foreign territory.

4. For the purpose of resolving this doubt, and of determining the court to which any claimant of the land, not now in possession, should resort, it seems only necessary to refer to the existing executive orders of Government and the Financial Commissioner, and the judgment of the Chief Court already noticed in these papers, in Yusaf and others *versus* Sardár Dewa Singh, No. 12, Civil Rulings, of 1870. The rule which has been repeatedly affirmed, and which is correctly stated in Financial Commissioner's Book Circular No. I of 1874, is that, as between States, the deep stream is the boundary in cases of alluvion, but that, when a boundary river suddenly quits its bed and cuts for itself a new channel, it ceases to be the boundary, and the Government which ruled over the territory cut off by the change in the river continues to rule over it. It was, however, laid down that this rule is to be regarded as having been in operation from the date of the issue of the orders of the Government of India in August 1860, and that reference should be made to the status of that month as the basis of the decision; it was subsequently prescribed, with special regard to cases of river change on the Sutlej and Chenáb, as between Baháwalpur and British territory, in this office letter No. 1281 of the 27th July 1874, to your address, that cases settled under the deep-stream rule prior to the issue of the Financial Commissioner's Circular of 1874 should remain undisturbed. In the Chief Court judgment the application of the orders of 1860, as between the Kapurthala State and British territory, was formally recognized, and it would therefore be futile, even if it were desirable, to endeavour to avoid their operation.

5. These orders must now be applied on the spot in accordance with the present aspect of the ground and river. The Deputy Commissioner should arrange with the Superintendent of the Kapurthala State for a line to be laid down, defining the jurisdiction in accordance with the principles above explained. The position and proprietory right of individuals should be maintained exactly as it is, and the boundary being thus fixed, there would be no difficulty in referring to the appropriate courts the decision of any claims that may remain.

Copy of a letter, No. 3077, dated 7th November 1879, from H. E. PERKINS, Esquire, Commissioner and Superintendent, Amritsar Division, to J. A. E. MILLER, Esquire, Secretary to Financial Commissioner, Punjab.

IN continuation of my No. 1452, dated 14th May last, I have the honor to submit copy of a letter from Deputy Commissioner, Amritsar, No. 370, dated 31st ultimo, and enclosure. I am very sorry Mr. Hawkins has allowed six months to elapse before sending up Mr. Young's reference, but we must make the best of it as it is.

2. As you have been already told, I presided at two meetings of Kapurthala and Amritsar officials in October 1878 and April 1879, and it was agreed that it is quite impossible to carry out the Government orders. The grounds of this conclusion are stated so clearly by Mr. Young that I will not repeat them.

3. Then we have to say what next is to be done. And the first step being obviously to get a map of the *status quo*, I ask sanction to the proposed grant of Rs. 250 for the cost of a survey.

Copy of a letter, No. 370, dated 31st October 1879, from C. B. HAWKINS, Esquire, Deputy Commissioner, Amritsar, to H. E. PERKINS, Esquire, Commissioner and Superintendent, Amritsar Division.

I HAVE the honor to forward in continuation of correspondence ending with No. 47, dated 10th February 1879, copies of letters from Superintendent, Kapurthala, and reply.

Copy of a letter, No. 82, dated 22nd April 1879, from Superintendent, Kapurthala State, to the Deputy Commissioner, Amritsar.

WITH reference to the córrespondence ending with your No. 451, dated 7th April, on the subject of jurisdiction on the Beás alluvial lands, I have now the honor, as arranged at the meeting held at Amritsar on the 14th instant, under the presidentship of the Commissioner, to explain the proposal which I then made on behalf of the Kapurthala Darbár, with the view of giving effect to the instructions of Government contained in the letter of Officiating Secretary to Government's No. 934, dated 15th August 1878, para. 5, copy of which is annexed.

"The Deputy Commissioner should arrange with the Superintendent of the Kapurthala State for a line to be laid down, defining the jurisdiction in accordance with the principles above explained."

2. A decision based upon the principles laid down by these orders involves the following processes :—

I. The course of the deep-stream in August 1860 has to be ascertained.

II. The subsequent changes have to be individually examined, the cases of erosion being distinguished from those of avulsion. In the former, the deep-stream remains the boundary, in the latter it ceases to be so.

3. The difficulty of investigating cases by these processes will, I fear, be enormous. The Kapurthala State possesses no records of river changes previous to 1864, and the subsequent records will not always show the results of a change of bed, as all that is recorded is the amount of land gained or lost without any trace of the fact that lands unaffected by the change have passed from one bank of the river to the other. To follow the change for 19 years with no initial record and imperfect annual records will be nearly hopeless.

4. Moreover this investigation may have to be made, not only in the cases in which a difference has already arisen, but at any point of the river's course. If five years hence a question as to the proper jurisdiction boundary arises at a spot where at present no doubt has been raised, we shall still have to go back to 1860 and work up the subsequent changes.

5. It is therefore of the utmost importance that a settlement of the jurisdiction boundary should be made along the whole course of the river, and changes there after recorded and attested on both sides.

6. Although the jurisdiction boundary is a separate question from the proprietory boundary, yet I think that, practically—considering first, that the proprietors are the only persons who since 1860 have concerned themselves in the question ; secondly, the difficulties of investigating the boundary on the principles laid down by Government; thirdly, the inconvenience of suddenly transporting people accustomed to one set of courts and procedure to another—the best way in all undisputed cases will be to adopt the accepted boundaries of villages as the boundary of jurisdiction, and in disputed cases only to attempt an application of the principles laid down by Government.

7. I have stated these views because I shall probably not have an opportunity of doing so later on. But for the present and in anticipation of a joint tour by the Deputy Commissioner and Superintendent, which, will doubtless be necessary before any ultimate decision on the question of jurisdiction boundary is arrived at, I think that maps showing the present state of the river bed should be prepared, as without them we are quite without reckoning,—and we ascertained the other day that there were none at present which would give us an idea of its state ; and whether the idea suggested in the previous para. is ultimately adopted or not, these maps should certainly show the present boundaries as claimed by the villages on either bank.

8. My proposals are that a person of the position of a Sadr Munserim with three plane tables and necessary establishment should be appointed by mutual agreement of the Deputy Commissioner and Superintendent with the following instructions :—

I.—To make a general sketch map of the bed of the river showing—(1) the present deep stream ; (2) other channels of importance ; (3) blocks of cultivation ; (4) the boundaries of villages. The high bank or the lands not liable to annual changes to be the limits of the map on either side.

* * * * * *

9. This plan will at all events serve to discover in how many places the boundary is disputed by the zamíndárs. When we have this information it will be more easy to say whether the jurisdiction boundary can be laid down on the principles I have suggested.

* * * * * *

Copy of a letter, No. 1362, dated 31st October 1879, from the Deputy Commissioner, Amritsar, to Superintendent, Kapurthala.

With reference to your No. 82, dated 22nd April, which I must apologise for not having answered before, I have the honor to reply as follows :—

1st.—As to your views on the question of laying down a jurisdiction boundary between Kapurthala and Amritsar, both where the boundary is disputed and where it is undisputed.

2ndly.—As to the proposal for the preparation of a map.

2. On the first point, I need hardly say that I fully agree in your remarks as to the difficulty of ascertaining and fixing the boundary according to the principle laid down by Government. No one who has had any practical experience of boundary cases can doubt that to obtain satisfactory oral evidence from the oldest inhabitants of several interested villages as to the course of the deep stream of the Rávi in 1860, and to settle with precision, also by oral evidence, the successive changes of the stream up to the present time, will occupy an indefinite time, and that the result will be of doubtful value.

3. While, therefore, I concur in your views, and should be fully prepared to accept your proposal that, at all events in undisputed villages, the present boundary should be accepted for purposes of jurisdiction, I fear that under the precise orders of Government some attempt at least must be made to carry out these orders. Till that attempt has been made it is probable that no proposal for modification of the principle laid down would be considered.

4. With regard to the preparation of a map as proposed by you, I have already expressed agreement in demi-official correspondence, have seen the officer appointed to the duty, and the project has been, I believe, carried out, though I have not yet seen any of the results.

5. The preparation of this map will, I think, be valuable as saving much time when local enquiry is begun. It will not, I fear, prevent additional claims being brought forward occasionally by either side, as the map can hardly be considered as final evidence of admission on either side, but it will serve as a base for enquiry and be most valuable for future reference.

6. Under these circumstances, I should, on being informed of the cost incurred, be glad to propose that half should be borne by the Government, and forward a copy of the correspondence to the Commissioner for information accordingly.

Copy of a letter, No. 1285, dated 20th November 1879, from the Secretary to Financial Commissioner, Punjab, to the Secretary to Government, Punjab.

With reference to correspondence ending with your office No. 1175, dated 31st October 1879, regarding the river bed dispute with the Kapurthala State, I am desired by the Financial Commissioner to submit copy of a further letter, No. 3077, dated 7th current (and enclosures in original to be returned), from Commissioner, Amritsar division, reporting what action has been taken in the matter, and the difficulties experienced in carrying out the orders of Government as to the final settlement of the question, and desiring sanction to an expenditure of Rs. 250 for a survey of the locality and the preparation of a map of the bed of the river. The Financial Commissioner thinks that the map, which is being made, is a necessary preliminary to any kind of decision in the matter, and the sanction of Government to the proposed grant of Rs. 250 for the cost of a survey is solicited.

No. 608, dated Lahore, 20th May 1880.

From—J. A. E. Miller, Esquire, Secretary to Financial Commissioner, Punjab,

To—The Secretary to Government, Punjab.

Under instructions contained in your letter of the 15th August 1878, No. 934, the Deputy Commissioners of Amritsar and Gurdáspur, in concert with the Superintendent of the Kapurthala State, were directed to determine the boundary line along the River Beás, between Kapurthala and British territory, a length of 44 miles. The boundary line to be thus laid down was one of jurisdiction, the position and proprietory rights of individuals were to remain unaffected.

2. The three officers above-named met accordingly in the month of January last, and I am now to forward their several reports in original, together with letter No. 697, dated 13th March last, from the Commissioner of Amritsar, and its enclosures.

3. Mr. Rivaz, the Superintendent of the Kapurthala State, and Mr. Hawkins, Deputy Commissioner of Amritsar, went along the line bordering the Amritsar district, 38 miles in length, and similarly, the Gurdáspur line, 6 miles in length, was inspected by Mr. Rivaz and Mr. Gardiner, the Deputy Commissioner of Gurdáspur.

4. As will be seen from their respective reports, the three officers agree on every question except the one of Desal and Chirághpur, which is fully detailed in both Mr. Hawkins' report and at paragraph 13 of Mr. Rivaz's report, and I am to state that, where all three officers agree, their finding is accepted by Mr. Lyall on all points.

5. In the Desal and Chirághpur case Mr. Hawkins adheres to the decision arrived at by General Taylor in his decision of 11th March 1876 in favor of the Amritsar villages, on the ground that this land was transferred by accretion and not by avulsion. Mr. Hawkins, though unable to go so far as General Taylor and say that all the land in dispute was transferred by accretion, considers it almost incredible that the whole area became transferred by avulsion in an identifiable form, and, considering the lapse of time and the difficulty of ascertaining facts, as well as the absence of certainty on either side, he is of opinion that the case is one eminently suited for a compromise, and he accordingly suggests one which he thinks will probably be accepted by both sides, *viz.*, a boundary of the nature shown on the map by a dotted line, by which the new village Chirághpur will be left on the Kapurthala side.

6. Mr. Rivaz, on the other hand, holds that the line of the deep stream in 1860 gave this land to Kapurthala, and that subsequent changes were by avulsion, and hence did not withdraw the lands from Kapurthala.

7. On this point I am to state that Mr. Lyall recommends that Government adopt the line which Mr. Hawkins calls the line of compromise, as, in Mr. Lyall's opinion, the facts in respect to avulsion or accretion are doubtful, and that therefore an intermediate line should be adopted.

8. In all cases but one the rule laid down by Government for the guidance of these officers was adhered to, the only deviation being in the case of the Amritsar villages of Chamba and Kambo, and the Kapurthala villages of Gamawála, Jamawála, and Guda. In this case both Mr. Hawkins and Mr. Rivaz agree to accept the boundary fixed by General Taylor along the Deg channel bed between the two *belás* in dispute, and for the reasons given in paragraph 8 of Mr. Rivaz's report Mr. Lyall recommends that it be accepted.

9. I am desired to add that, as Mr. Lyall understands it, by the present decision the jurisdiction boundary follows the deep stream, except in certain places where blocks on one side of the stream have now been placed in the jurisdiction of the State on the other side. If the main river gradually eats away the whole of one of those blocks, the deep stream will again become the boundary in that locality, and if the river returns from behind one of these blocks, the accretion to the block between the block and the main river will of course belong to the State to which the block belongs. If the main river changes its channel to one on the other, or foreign territory, side of the block, and then gradually moves away from it into the foreign territory, the accretion to the block by gradual decretion of foreign territory will go to the State which owns the block, but if a minor channel of the river forms on the foreign territory side of the block, then the rule of decision will be that described by Mr. Rivaz, in paragraph 13 of his report, in the sentence beginning—" The fair principle to go upon in such cases would appear to be, &c. &c."

10. I am to remark that, of course, as new cases of avulsion occur from time to time, the jurisdiction boundary, where it is now the deep stream, will cease to be so, and new blocks will be formed on one or the other side of the river to which the same principles will apply.

11. I am also to add that Mr. Lyall understands from the correspondence that by certain decisions of the Chief Court the old customary " kishti-banna" rule of decision of both proprietory right and jurisdiction has been set aside, and the rule for decision for proprietory claims, as far as our courts go, is now

the same as the rule of boundary jurisdiction adopted by Government, *viz.*, that land transferred by avulsion belongs to the men who owned it before the avulsion occurred, and land gradually gained by accretion belongs to the owners of the land to which it accretes.

12. Before agreeing to the definition of boundary now made, I am to state that Mr. Lyall is of opinion that the Government ought to demand from Kapurthala an assurance that its courts will accept this rule of decision, otherwise, when our zamíndárs follow land across the stream, they may be told in Kapurthala that the Kapurthala courts follow the old customary rules and do not admit their title.

13. Mr. Lyall thinks that it would have been more satisfactory to have arranged by agreement between the two States and the zamíndárs of estates on opposite banks for the fixing by arbitration of a fixed boundary once for all, independent of the deep stream, such boundary to be at the same time the boundary of proprietory rights and of jurisdiction.

14. But Mr. Lyall thinks Government are probably not prepared to attempt such a negotiation, and I am accordingly to state that he recommends that the boundary proposed by Messrs. Rivaz, Hawkins, and Gardiner, be accepted, subject to a decision by Government in the case of Desal and Chirághpur.

No. 697, dated 13th March 1880.

From—H. E. PERKINS, Esquire, Commissioner and Superintendent, Amritsar Division,

To—The Secretary to Financial Commissioner, Punjab.

IN answer to your No. 8222, dated 18th December 1879, I have the honor to forward copies of the letters noted in the margin with their original enclosures, reporting the operations undertaken by the Deputy Commissioners of Amritsar and Gurdáspur and the Superintendent of the Kapurthala State for determining the boundary on the Beás.

From Deputy Commissioner, Amritsar, No. 54, dated 4th March 1880.
From Deputy Commissioner, Gurdáspur, No. 58, dated 18th February 1880.

2. The case has been the subject of so much labour and correspondence that I will not further complicate it by unnecessary remarks.

3. I will state, however, that the men of Munda, (paragraph 10 of Mr. Rivaz's memo. and line D. D. on the map) are dissatisfied with the proposed decision and have been very urgent with me to get it modified. They say that at first settlement the land was all barren sand. Prior to second settlement they located on it the two villages now on it. But it is a weak point in their case that these villages were called after the names of Kapurthala officials, *i.e.*, Alim Khan and Karmbaksh and are populated by Kapurthala people exclusively. They say that these names were fixed in Sambat 1922 by Kapurthala officials when they forcibly took the land which the Munda men had held till then and named Rámpur and Rámsinghwála. It is unfortunate that General Taylor wrote no decision on this case.

4. I have explained to them that the present award is only one to determine the boundaries of States and not to fix rights in land which are still open to judicial enquiry, but neither they nor the men of the other two discontented villages now to be mentioned appreciate this. They affirm that proprietory right will inevitably follow jurisdiction as it did in the above case of Rámpur and Rámsinghwála being forcibly turned into Karmbakshwála and Alimkhanwála.

5. I apprehend there is much force in these remarks, and that it must be borne in mind that any decision given as to jurisdiction will certainly operate to regulate ownership as well. Even if decrees be given in Court we all know how they can be evaded in the matter of impounding cattle, taking grass and firewood, fisheries and the like. Feelings of this sort no doubt actuated General Taylor in his decision, and Mr. Gardiner has some very pertinent remarks in the same view to which I beg to draw attention.

6. Proceeding up the river the next village that has applied to me is Kiri Shahis. These men come of course praying that General Taylor's line may be taken as Mr. Hawkins suggests. Inasmuch as this is the case which had been exhaustively treated by my predecessor and by both the officers lately engaged in it, I need say no more about it here.

7. Then higher up still comes the village of Bhalojla (line J. J. on the map). Its inhabitants come to object to the line now agreed on by both officers along the course of the deep stream, as they urge that it is different from the boundary of either settlement, and also does not conform to the deep stream.

8. I feel that though there may be dissatisfaction on the grounds which I have felt it my duty to explain in these paragraphs, I cannot counsel the Government to depart from the line laid down by these officers; while in the one case where they have not laid down any line, I am disposed to take the view taken by General Taylor, which view, I should add, has been now adopted in the case of Chamba near the south end of the tract and should therefore apparently govern, as he meant it to do, all the cases which he decided.

9. It will rest with Government further to depute a qualified engineer to make the survey (I fear not before the hot season as the Deputy Commissioner, Amritsar, kept the papers a month) or else to allow him to send Mr. Beahan as he proposes. Orders are also required as to who shall bear the cost of this survey.

10. The aspect of the case as regards the Gurdáspur district is, owing to the comparative narrowness of the stream, so very simple that I need add nothing to Mr. Gardiner's observations save to say that the serveyor must of course go up to the north end of the disputed boundary there, and the cost will include his work along both districts.

Memorandum on the jurisdiction boundary line along the Beás between Kapurthala territory and the districts of Amritsar and Gurdáspur, by C. M. RIVAZ, Esquire, Superintendent of the Kapurthala State, dated 31st January 1880.

I MET the Deputy Commissioners of Amritsar and Gurdáspur during the present month for the purpose of fixing the boundary line along the Beás between Kapurthala and British territory, in accordance with the instructions contained in the letter of the Punjab Government to the Financial Commissioner, No. 934 of the 15th August 1878.

2. These instructions were to the effect that we were only to determine the jurisdiction line, leaving any disputes in regard to proprietory rights to be decided, after the jurisdiction line had been laid down, by the Courts, British or Kapurthala, to which they would appertain. In fixing the jurisdiction line we were to be guided by the rule that as between States the deep stream is only the boundary where land has been thrown up by the action of the river by gradual accretion and not in cases where land has been cut off by avulsion in an identifiable form; and as this rule was promulgated by the Government of India in August 1860, we were to regard it as having been in operation from such date, and to refer to the status of that month as the basis of our decision.

3. We have carried out these orders to the best of our ability, going over the whole ground together, and making use of all available evidence, oral or documentary. It is obvious, however, that to fix the exact course of a river like the Beás 19 years back, and to trace out its subsequent action to the present time is a matter of considerable doubt and difficulty, and we can hardly flatter ourselves that our conclusions are precisely accurate in every case. We have, however, done our best under the circumstances to satisfy the requirements of Government, and the line we recommend for adoption is, except in one case where the Deputy Commissioner of Amritsar and myself propose, for reasons which will be stated hereafter, an admitted compromise, in accordance, so far as we have been able to ascertain the facts, with our instructions. In only one case are the Deputy Commissioner of Amritsar and myself at variance, and here Government must decide between us.

4. The Beás runs for 44 miles between British and Kapurthala territory, separating for 38 miles Kapurthala from the Amritsar district and for six miles from Gurdáspur. A preliminary survey was made of the river-bed by an Amín borrowed from the Jhang Settlement and a map prepared by him on a scale of 4 inches to the mile. On this map, as we went along, we delineated the boundary we agreed upon. A reduced copy of the map accompanies this memorandum for submission to Government. The red line represents the boundary we recommend. The portions of the line marked with capital letters refer to the successive cases along the river in the order we took them up.

5. I met Mr. Hawkins, the Deputy Commissioner of Amritsar, on the 12th January, and we commenced our work at the lower end of the Beás, just above its junction with the Sutlej. By reference to the map our course will be traced up the river.

6. Boundary line A. A.—The deep stream now runs here close under the Kapurthala high bank. In 1857, by a sudden deflection of the Sutlej southwards, 5 villages were cut off from Ferozepore, and under the deep stream rule were made over to Kapurthala. Since then, the Beás, working from west to east, has cut away the entire lands of three of these villages, and the greater portion of the lands of the remaining two villages. We came to the conclusion that the tract between line A. A., and the present deep stream had been cut off by avulsion in an identifiable form, and so should remain with the Kapurthala State, but that all beyond the line had formed on the Amritsar side by gradual accretion.

7. From A to B we run the line across a strip of sand.

8. Line B B.—Here the line we propose runs through the tract which formed the subject of General Taylor's judgment in the case between the Amritsar villages of Chamba and Kambo and the Kapurthala villages of Gamawála, Jamawála, and Guda. The facts are fully detailed by General Taylor, and he decided that the boundary should be fixed along the dry channel between the 2 "belás" in dispute. Under all the circumstances we strongly recommend that the boundary fixed by General Taylor may be accepted as the present jurisdiction line. We admit that our recommendation is a compromise, pure and simple, and that in strict accordance with the rule on which we have been directed to act, the line should be either that of the present stream which is immediately under the Kapurthala high bank or along the channel under the Amritsar high bank; but this case presents special difficulties, and we have found it impossible to discover to our satisfaction the real facts. The case turns on the question whether the bela adjudged by General Taylor to Kapurthala came over to the Kapurthala side of the river about the year 1863 by avulsion or was formed by gradual accretion. There seems no doubt that the 2nd "bela"

was formed by gradual accretion, as the river gradually worked its way after 1863 from where it was then flowing between the two present belás to the Amritsar side, while the subsequent change in the course of the river, which has again brought it to its original position under the Kapurthala high bank, has admittedly been a case of avulsion. If then, the first "bela" was formed by accretion, Kapurthala would be entitled to follow the subsequent accretions to the Amritsar side and to retain the whole tract now as it has been cut off by avulsion. If, on the other hand, the 2nd "bela" was cut off in 1863 from Amritsar by avulsion, Kapurthala ought never to have obtained possession of it, nor in consequence to have had any title to the subsequent accretions since 1863, and so the present deep stream would be the proper jurisdiction boundary. General Taylor expresses an opinion that this 1st "bela" was cut off from Amritsar in 1863 by avulsion, but a reference to his judgment will show that this opinion is opposed to that of the Amritsar officers, the Tahsíldár, Extra Assistant Commissioner, and Colonel Hall, who had previously investigated the case and who all reported that the whole tract, including both "belás," had been acquired by Kapurthala by gradual accretion, and we have been unable to discover on what grounds General Taylor formed his opinion. However, Kapurthala has a rough map, prepared in 1863, which shows what is now this "bela" as a sandy tract newly thrown up by the river. The preponderance of what evidence exists is perhaps in favor of Kapurthala, but the case is open to such doubt that, considering the extent of the whole tract in question, we recommend the compromise above-mentioned, and the channel along which we propose our line forms an excellent natural boundary. We are the more anxious that our recommendation should be adopted, because, though we fully bear in mind that we are not dealing with questions of proprietory right but only with the question of jurisdiction, as a matter of fact General Taylor's decision has been acted upon, and the Kapurthala and Amritsar villages have obtained possession respectively of either "bela." If there be any variance between the jurisdiction line now laid down and the boundary fixed by General Taylor, it will undoubtedly lead to a re-opening of the proprietory disputes which are at length at rest, and fresh litigation will ensue. Under these circumstances we strongly urge that the jurisdiction line we recommend may be accepted. This is the only case in which we have to propose a deviation from the rule prescribed for our guidance.

9. Line C C.—Here the present deep stream, changing from Kapurthala to the Amritsar side, runs for some little distance under the Amritsar high bank, and afterwards about half way between the two banks. We came to the conclusion that along this part of the river the deep stream should be the present jurisdiction boundary, there being no land on either side of the river which has been the subject of avulsion.

10. Line D D.—This is a case which was investigated by General Taylor, but he does not appear to have recorded his conclusions in writing. In 1860, the river, which is now under the Kapurthala bank, seems to have been running at some little distance from the Amritsar high bank, and in 1860, two Kapurthala villages, Karmbakshwála and Alimkhanwála were established. These villages stand a few hundred yards to the east of the line we propose. The Amritsar alluvion and diluvion records show that in 1866 the river suddenly changed to the Kapurthala side and cut off by avulsion from Kapurthala a tract 1,218 acres in extent. After a careful consideration of all available evidence we are of opinion that the line should run here as shown on the map, the land between the line and the present deep stream representing what Kapurthala is entitled to retain as having been cut off by avulsion.

11. Line E E.—Here the deep stream is the proper present boundary. There is no land on either side which can be claimed as having gone across by avulsion. At this part of the river, above Gobindwál, the lands on either side are owned in proprietory right by the Kapurthala State.

12. Line F F.—Here the land between our line and the deep stream was cut off by avulsion two years ago when the river took its present course, and so should remain with Kapurthala.

13. Line G G.—This is the case about which Mr. Hawkins and I are not in accord. It is that of lands Desal and Chirághpur, on which General Taylor furnished a report, and recorded his opinion that, "taking the basis of 1860 and treating the case on its merits," the whole tract to the west of the present deep stream ought to be British territory. I am willing to accept the facts as stated by General Taylor, but contend that, if they are rightly applied, Kapurthála is entitled to take up to the line colored yellow. The map marked B in General Taylor's report accompanies this memorandum on which General Taylor's remarks are recorded, and it will be observed that he notes that the account of things given by the Kapurthala officials tallies almost throughout with that of the Amritsar officials. Now, let the facts be considered as stated by General Taylor. He finds that the map shows the various river changes from the beginning of Sambat 1918. The beginning of Sambat 1918 corresponds to April 1861, and at that time the river would obviously have been in the same position as in August 1860, as the river does not change its channel during the cold weather. At that time according to General Taylor, the river was running in the channel marked No. 1 on his map, that is somewhere more or less under the Amritsar high bank. In Sambat 1919 (1862), the river (I am following General Taylor's records of facts) cut off by avulsion a portion of the tract under investigation, namely, Mand Desal: Amritsar took possession under the deep-stream rule. In Sambat 1923 (1866) the river returned to channel 1, and Kapurthala regained possession of Mand Desal which it ought properly to have held all along. In Sambat

1927 (1870) the river changed to where the present deep-stream is under the Kapurthala high bank, and so both Mands Desal and Chirághpur were cut off. In Sambat 1932 (1875), the river again changed into the channel between the two Mands, and since then it has once more returned to its channel of 1870 under the Kapurthala bank. These are the facts on which General Taylor expressed an opinion adverse to Kapurthala as regards both Mands, yet it seems clearly established from them that in 1860-61 the river was running more or less under the Amritsar bank, and that its subsequent several changes have on each occasion cut off the land affected by avulsion. In determining the line up to which Kapurthala is now, according to my contention, entitled to take, the difficulty of course exists in ascertaining the exact course of the river in 1860-61 and in tracing the gains and losses by alluvion and diluvion to either Mand, while they have remained on the Amritsar side of the river, for it must be borne in mind that when the deep stream shifted from under the Amritsar side to between the two Mands or to under the Kapurthala bank, as the various changes occurred, still a more or less considerable volume of water came down from the Amritsar channel and cut away or threw up land. The fair principle to go upon in such cases would appear to be that the State which follows a tract across the deep stream under the avulsion rule is not entitled to subsequent accretions to such tract in the direction of the opposite bank, but only to retain the exact area which has been followed across ; but if a tract so followed across the deep stream first suffers decrement in the direction of the opposite bank and then gains increments in the same direction, the State crossing the tract is entitled to so much of the increments as restores the tract to its original area when it was cut off, but not to anything beyond such amount. Acting on this principle, after examination of all available alluvion and diluvion records, the Kapurthala line should now, to the best of my judgment, run as I propose it. I cannot pretend to precise accuracy, but I believe that Mr. Hawkins agrees with me that, if such claim on behalf of Kapurthala is conceded, this should be the present line, that is, either the line should be the present deep stream, which deprives Kapurthala of the whole tract, as recommended by General Taylor, or it should be fixed as proposed by me. This case must accordingly be left for the decision of Government; I need only further observe, with reference to General Taylor's remarks as to his repugnance to allowing Kapurthala to retain lands which so distinctly appertain to the Amritsar bank and are nestled in under it, that it does not appear to have been brought to General Taylor's notice that when, in 1851, Government made over to the Kapurthala State certain villages along this portion of the Beás in exchange for certain other Jullundur villages, the tracts now composing the greater portion of the two Mands under enquiry were included in villages in the bed of the river, which were given to Kapurthala in exchange : General Taylor's remarks are therefore, even from his sentimental point of view, inapplicable.

14. Line H H.—Here the deep stream should be the present boundary. There is no land to be followed across.

15. Line I I.—Here Amritsar is entitled to the land between our line and the deep stream, as representing a tract of some 450 acres which was cut off by avulsion in 1865.

16. Lines J J, K K, L L.—Here, from a few miles below the railway bridge to the top of the Amritsar district, the river bed contracts considerably, and we have found that the jurisdiction line should follow the deep stream the whole way, except as regards the small "bela" between the deep stream and our line KK., which was cut off from the Amritsar side by avulsion two years ago, and so should be retained by Amritsar.

17. Mr. Hawkins and I parted company on the 21st instant. On the 23rd instant I met Mr. Gardiner, the Deputy Commissioner of Gurdáspur, and we spent two days in inspecting the 6 miles of river bed between Kapurthala and Gurdáspur, and determining how the jurisdiction line should be laid down.

18. Line M M.—Here the deep stream is the proper boundary.

19. Line N N.—This is one of the cases which was investigated by General Taylor, and we are agreed that his statement of the facts may be accepted as correct. In 1851 the deep stream appears to have been pretty well where it is now. From that year up to about 1868 the river kept shifting gradually towards the Gurdáspur side, throwing up land on the Kapurthala side by accretion. Since then changes in the course of the river have been sudden and the lands affected have been cut off by avulsion. Applying the facts, the line should in our opinion run as we propose.

20. Line O O.—This tract adjoins that which formed the subject of General Taylor's investigation, and the circumstances are nearly similar. After examination of the alluvion and diluvion records, we are agreed that the present boundary should be as we propose.

21. Line P P.—Here Gurdáspur is entitled to the strip between our line and the deep stream as being the remnant of a piece which was cut off from the Gurdáspur side by avulsion.

22. The river jurisdiction line between Kapurth la and British territory has thus, subject to the confirmation of Government, been fixed as far as possible in accordance with the instructions issued for our guidance, the only case in which there is a conflict of opinion being that mentioned above in para. 13. As soon as the orders of Government are obtained

the line as sanctioned should at once be marked out where it differs from the deep-stream by temporary boundary pillars, and, as these will of course be obliterated by the floods of the next rainy season, it will be necessary at the same time to establish permanent pillars or other marks on the high ground beyond the reach of the river, by means of which the exact position of the present line, which will be the basis of action for dealing with the subsequent changes in the jurisdiction boundary caused by the river, may be ascertained, if necessary, in future years. We beg that the case may be disposed of as soon possible, as it is essential that this work should be completed before the rains. The Amín who has prepared the map of the river bed will not be available for this work, as he is required in the Settlement Department, but I believe that Mr. Hawkins hopes to be able to procure the services of a European surveyor for it.

23 For rectifying the jurisdiction line from year to year, as necessitated by the changes of the river, it will be all important that the British and Kapurthala Tahsíldárs should meet after each rainy season and correct the line if necessary. There ought to be no difficulty in the matter, as it will be, generally at all events, easy enough to distinguish between cases of avulsion and accretion if they are investigated in the same year that they occur. Should, however, any difference of opinion arise between the Tahsíldárs, the Deputy Commissioner and Superintendent of Kapurthala should without fail meet during the cold weather and decide any such case.

24. As this case will be reported for the orders of the Government by the Deputy Commissioners of Amritsar and Gurdáspur, through the Commissioner of Amritsar and the Financial Commissioner, I have thought it most convenient to record my remarks in the form of a memorandum, of which I will send copies to the Deputy Commissioners to accompany their reports.

No. 54, dated 4th March 1880.

From—C. R. Hawkins, Esquire, Deputy Commissioner, Amritsar,

To—The Commissioner and Superintendent, Amritsar Division.

I have the honor to forward, in continuation of correspondence ending with No. 397 of 4th December 1879, the papers noted on margin, including a memorandum by Mr. Rivaz, Superintendent of Kapurthala, in which is detailed the proceedings which took place in following the instructions of Government as to ascertaining the boundary between Kapurthala and Amritsar.

1. Memorandum by Mr. Rivaz.
2. Map of river bed (large and small).
3. General Taylor's decision in Desál case with original map.

2. I have delayed sending in the report till I had gone through all papers which could bear on the Desal and Chirághpur case, the only one in which Mr. Rivaz and myself were unable to agree.

3. The memorandum drawn up by Mr. Rivaz gives so full an account of our proceedings and the decision at which we arrived, that a recapitulation of them by me seems superfluous. My remarks are therefore confined to the Desal and Chirághpur case, as to which I did not feel at liberty to agree with the Superintendent of Kapurthala. The case had been thoroughly investigated by General Taylor, when Commissioner of Amritsar, in company with Kapurthala officials, and in his decision, dated 11th March 1876, he recorded that "on the merits," *i. e.*, the deep stream of 1860 being taken as the basis of investigation, the Amritsar villages are entitled to the land in dispute. In the face of this finding by such a careful officer as General Taylor, I was unable to accept myself the conclusion recorded by Mr. Rivaz.

4. Mr. Rivaz has noted that General Taylor's sentimental view of the case is untenable. The villages opposite Jalálabad and Kiri Bodal were, no doubt, given to the Kapurthala State in 1851, and the Survey map made in 1847 shows the "mands" in dispute on the left bank of the Beás. The stream had, however, altered in 1851-52, when the second survey took place, and the "mands" were included in the settlement area of Jalálabad and Kiri Bodal. They were again included in Amritsar village areas in Mr. Prinsep's settlement. These appear to me to be the only grounds for any claim based on the feeling of the Amritsar villages.

5. So far as I can ascertain, I agree with the finding that the course of the deep stream in 1860 was, as shown by the map prepared at General Taylor's investigation, under the Amritsar side. The only question open to any doubt is, whether all subsequent changes by which land was lost to the left bank, were by avulsion. General Taylor seems to have considered that the land forming the "mands" accreted to the Amritsar side, and in this view appears to have decided that the increment should be held to be the property of the Amritsar villages.

6. The yellow line drawn on the map shows fairly the boundary which would make good the land lost to Kapurthala as shown by the alluvion papers of Amritsar; but, with General Taylor, I should be inclined to doubt whether all the land was transferred by avulsion. Amritsar would be entitled to any increment acquired by simple accretion, and General Taylor has apparently found that all the land in dispute was simple accretion. Though unable to go so far as this conclusion, I am of opinion that it is almost incredible that the whole area was transferred by avulsion in an identifiable form, that is to say, identifiable in any other way than by its local position, ascertainable by compass bearings.

7. After the lapse of time, it is still more difficult to ascertain exact facts than at the time of General Taylor's investigation. I have been unable to obtain any additional evidence or to elucidate any further the grounds of his decision. I can merely place on record my own difficulty in refusing to be guided by his finding and the presumption that a finding directly contrary to General Taylor's would be erroneous.

8. The case in the absence of certainty on either side seems to me to be eminently one for a compromise. I should propose a boundary of the nature shown on the map by a dotted line. This would leave the new villages of Chirághpur on the Kapurthala side, and would probably be accepted by both parties. It has already been noted that at the time when the Jullundur villages were presented to the Kapurthala State they did not include the land now claimed, the deep-stream being then on the left bank.

9. There remains only one point noticed in paragraph 22 of Mr. Rivaz's memorandum. I could put an Assistant Engineer now employed by the Municipality, Mr. Beahan, who has qualified at Roorkee, on the work of fixing the bearings of the boundary which may be finally declared by Government; when the bearings have once been scientifically ascertained, small care would in future be needed to align the boundary afresh after each rainy season.

10. The Tahsíldárs on each side have been directed to record carefully in future all cases of avulsion, in communication with the officials of the opposite State, and, in case of dispute, to report at once for orders.

No. 58, dated 18th February 1880.

From—J. W. GARDINER, Esquire, Deputy Commissioner, Gurdáspur,

To—The Commissioner and Superintendent, Amritsar Division.

WITH reference to the correspondence ending with your No. 3322, dated 6th December last, I have now the honor to report that I have met the Superintendent of the Kapurthala State and that we have agreed upon a line which in our opinion represents what ought to be declared the boundary line between the Kapurthala State and British territory if this is laid down in accordance with the orders of Government. The Superintendent of the Kapurthala State has embodied the results of our meeting in a memorandum, dated 31st ultimo, of which I presume you have already received a copy from the Deputy Commissioner, Amritsar. I therefore only submit herewith copies of its paragraphs 17 to 21, both inclusive, which refer to this district, together with the map which accompanies and explains it. It seems unnecessary to go into fuller detail than Mr. Rivaz has done regarding the grounds on which we decided on the line marked on the map. I consider it sufficient to state that I agree in the opinions expressed by Mr. Rivaz.

2. I see that in former correspondence you and other officers have remarked on the impossibility of laying down the boundary line in accordance with the orders of Government; on this point I do not wish to add anything to what has already been said, but I consider it my duty to report that, as far as my district is concerned, the carrying out of the Government orders will inevitably give rise to permanent dissatisfaction on the part of the proprietors of those villages whose boundaries are declared not to extend up to the middle of the bed of the river. Both parties would be contented to take their chance of receiving annually more or less land under the old kishti-banna rule or they could understand the justice of an equal division of the river bed if, for motives of public policy, it is considered necessary to lay down a fixed boundary between British India and the Kapurthala State, but they cannot understand why the line which the deep stream happened to take in 1860 or in any other year should be adopted as the boundary for ever after, and in stating this opinion I do not forget that Government expressly declares its intention, not to interfere in any way with the proprietory rights of the villagers on either bank; for, supposing that the Kapurthala State and its courts accept this principle (and it does not seem clear that they will do so), the charges laid upon the land are not the same in Kapurthala as in British India, and for this reason, as well as from general dislike to be subject to a foreign State our villagers may refuse to follow the land which they now possess on the further side of the proposed boundary line or will do so with a feeling of dissatisfaction at the new conditions imposed on them.

* * * * * * *

No. 506, dated Lahore, 7th June 1880.

From—W. M. YOUNG, Esquire, Secretary to Government, Punjab,

To—The Secretary to Financial Commissioner, Punjab.

I AM desired to acknowledge receipt of your letter No. 608, dated 20th of May, reporting upon the measures which have been taken by the Deputy Commissioners of Amritsar and Gurdáspur, in communication with the Superintendent of the Kapurthala State, for giving effect to the instructions conveyed in this office letter No. 934, dated 15th August 1878, regarding the determination of the jurisdiction boundary between the Kapurthala State on the one hand and the Amritsar and Gurdáspur districts on the other.

2. The determination of this boundary has been effected by personal communication between Mr. C. M. Rivaz, Superintendent of the Kapurthala State, and Messrs. C. R. Hawkins and J. W. Gardiner, the Deputy Commissioners of Amritsar and Gurdáspur respectively, and so far as has been possible the rule prescribed by Government for the decision of such cases has been observed in the recommendations submitted by these officers; that is to say, that up to August 1860 the boundary has been held to have been identical with the course of the deep-stream of the Beás river, and subsequent to that date the rule laid down by Government, which is enunciated in Financial Commissioner's Book Circular No. I of 1874, has been applied, *viz.*, that when the boundary river suddenly quits its bed and cuts for itself a new channel, it ceases to be the boundary, and the Government which ruled over the territory cut off by the change in the river continues to rule over it; while in cases of gradual accretion or erosion the deep stream remains the boundary, an increase or decrease in the area on either side resulting from such river action being accepted by the respective Governments.

3. So far as these principles have been observed in the recommendations which are now submitted, no hesitation is felt by His Honor the Lieutenant-Governor in accepting the proposals. The enquiry appears to have been made with all the care necessary to lead to a correct conclusion.

4. In two cases only along the course of the boundary the special orders of Government are called for, these cases being of a different character. The first relates to the boundary at that part of the course of the river which lies between the Amritsar villages of Chamba and Kambo, and the Kapurthala villages of Gamawála, Jamawála, and Guda. The Deputy Commissioner of Amritsar and the Superintendent of the Kapurthala State are agreed in the view which they take of this case. It is, they state, impossible to trace with certainty the results of river action in the successive years from 1860 up to date, in such a manner as to apply strictly the principle of the Government rule. They therefore recommend that the decision given by General Taylor in deciding in appeal a claim to proprietory right in the "bela" lands adjoining these villages, be accepted for the purpose of determining the jurisdiction boundary; and that the alluvial area designated as Bela I in his judgment should be included in Kapurthala, and Bela II, in British territory. The reason which is given by Mr. Rivaz in his memorandum for adopting this recommendation appears to His Honor to be good. It is admittedly a compromise, but a compromise between two extremes, regarding which it is impossible to determine which is the correct one. The question depends upon the action of the river about the year 1873, the exact nature of which cannot be ascertained. It is an additional argument for accepting this conclusion that, since General Taylor's order was given, the villages on either side have acted upon it, and have obtained possession respectively of the belás adjoining their lands. The Lieutenant-Governor therefore accepts the proposal that General Taylor's decision should, for the purpose of settling the jurisdiction boundary, be accepted as final.

5. The second case in which the orders of Government are called for is one upon which the Deputy Commissioner of Amritsar and the Superintendent of the Kapurthala State entertain different opinions. It relates to Chaks Desal and Chirághpur, and it is to this case that the previous correspondence, which has reached a considerable length, refers. Mr. Hawkins would settle this question in the same manner as the one above treated, holding that the facts regarding the changes of the river are doubtful. Mr. Rivaz contends that according to the rule laid down by Government the whole area should be allotted to the Kapurthala State, holding that when the rule was passed it was held by Kapurthala and that subsequent changes have not been such as to transfer the lands under the operation of the rule. The Lieutenant-Governor, after full consideration of the arguments on both sides, agrees with the conclusion arrived at by the Financial Commissioner that the case is one for a compromise, and that for two reasons: first, because there is no evidence of what happened in the interval between August 1860 and April 1861, and Sir Robert Egerton does not concur in the view held by Mr. Rivaz that the river cannot have changed its course in that interval; and secondly, because he thinks

there is not sufficient evidence to show that the change in 1862 was so entirely by avulsion as to establish the claim of the Kapurthala State. The facts are not absolutely certain; it therefore appears to His Honor to be only consistent with the principle which has been observed in deciding the case of belás Chamba and Kambo to accept the view taken by Mr. Hawkins, which is also that held by the Commissioner of Amritsar and by the Financial Commissioner, as well as by General Taylor, and in this case also to rule that the difference be settled by a compromise. Sir R. Egerton therefore sanctions the proposal contained in your paragraph 7 for adopting an intermediate line, which, it is understood, is that represented by the dotted line on Mr. Rivaz's map.

6. It is not necessary, in His Honor's opinion, to enter further into the subject discussed in your paragraph 9 than to say that when the boundary has been definitely laid down in accordance with the proposals now reported and sanctioned in this letter the rule enunciated in the Financial Commissioner's Book Circular No. I of 1874, regarding the jurisdiction boundary, will be annually applied and enforced. The Lieutenant-Governor, however, concurs in what appears to be the object of the remarks made in that paragraph, *viz.*, that under no circumstances can the accretions resulting from a change in the course of any minor stream be taken advantage of by either side to increase its territorial jurisdiction.

7. The Lieutenant-Governor has considered the proposal made in your 12th paragraph, *viz.*, that an assurance should be demanded from the Kapurthala State that its Courts will accept the rule of decision in regard to proprietory claims which appear now to have the sanction of the judicial decision of the Chief Court. His Honor is not inclined to take action upon this proposal. In the first place, the decision of the jurisdiction boundary cannot be made to depend upon any such assurance of the State in regard to the working of its Courts; and in the second place, His Honor believes that it would be unnecessary to demand such assurance, inasmuch as the practice of the Kapurthala Courts has generally been in accordance with the practice of our own Courts; and, even if this were not the case, Sir Robert Egerton is convinced that the aim of the State would always be to avoid a procedure which would manifestly place the subjects of the British Government in their applications for redress to the Kapurthala Judicial Courts at a disadvantage in comparison with the position enjoyed by Kapurthala subjects when prosecuting their claims in British Courts. The erection of permanent boundary marks for identifying the jurisdiction line as now sanctioned should be undertaken without delay, the cost being borne in equal shares by the districts concerned and the Kapurthala State.

In conclusion, I am to express His Honor's satisfaction at the thorough manner in which this long-pending case has been finally set at rest.

No. 1755, dated 30th August 1880.

From—Colonel C V. JENKINS, Officiating Commissioner and Superintendent, Jullundur Division,

To—The Secretary to Government, Punjab.

FORWARDS copy of Mr. Rivaz's letter No. 100, dated 3rd August, with reference to the settlement of the boundary line between Kapurthala State and the districts of Amritsar and Gurdáspur.

2. Officiating Commissioner is not acquainted with either the *locale* or the previous facts of the case, geographically speaking, but, as Mr. Rivaz still seems to consider that the question is open to reconsideration for the reasons urged in his letter under submission, begs leave to send it on for His Honor's orders.

No. 100, dated 3rd August 1880.

From—C. M. RIVAZ, Esquire, C.S., Superintendent, Kapurthala State,

To—The Commissioner and Superintendent, Jullundur Division.

I HAVE the honor to acknowledge the receipt, under your No. 1317 of the 30th June of the orders of Government in regard to the jurisdiction boundary line along the Beás, between British and Kapurthala territory.

2. The line proposed by the Deputy Commissioners of Amritsar and Gurdáspur and myself has been approved by Government in all the cases where we were in accord, but in the case of Mands Desal and Chirághpur, where the Deputy Commissioner of Amritsar and I differed in opinion, the Government has decided against me, and in favor of the line proposed by Mr. Hawkins.

3. The line so sanctioned is, as I understand, identical with that which was proposed by General Taylor, that is to say, it follows the course of the channel which formed the deep stream of the river at the time of General Taylor's investigation. I have been waiting in expectation of receiving from Mr. Hawkins the maps submitted to Government on which I traced the boundary I claimed for the Kapurthala State, and on which Mr. Hawkins subsequently noted his alternative line, but they have not yet reached me. Mr. Hawkins has, however, sent me a duplicate of the small scale map, and the line he has traced on it seems to follow the course of the channel above mentioned. Further, it seems clear from the remarks in paragraph 6 of the Commissioner of Amritsar's forwarding letter, in paragraph 5 of the Financial Commissioner's report, and in paragraph 5 of the Secretary to Government's letter that the line now sanctioned is the same as that proposed by General Taylor; so I presume my supposition is correct that the proposal which was made by General Taylor to deprive the Kapurthala State of the whole of the lands lying on the right bank of what was the main stream at the time of his enquiry has been accepted in its entirety by Government.

4. Under these circumstances, I beg respectfully to submit the case again for the further consideration of Government, as I think I can show that the present decision, if maintained, will be very hard on the Kapurthala State.

5. The determination of the boundary line as proposed by Mr. Hawkins has been treated throughout as being a compromise of the case, and I notice that Mr. Hawkins has expressed an opinion that it would probably be accepted as such by both parties. This I must emphatically assert is not the case as regards the Kapurthala Darbar, nor can I understand how Mr. Hawkins could suppose that the Darbar would be content with a mere repetition of General Taylor's proposal. And I venture to represent that the term "compromise" can hardly be properly applied to a decision which deprives Kapurthala of the whole lands really in dispute. For I imagine that no serious claim can ever have been preferred by the British authorities to any portion of the land lying to the left of the channel which forms the boundary proposed by General Taylor and Mr. Hawkins. This tract was not separated from the Kapurthala bank till 1870, and then indisputably by avulsion, and Kapurthala has never lost possession of any portion of it. If the boundary proposed by Mr. Hawkins is maintained, it will not be a compromise, but a decision totally adverse to Kapurthala.

6. The reasons stated in the Secretary to Government's letter for disallowing my claim on behalf of the Kapurthala State are because (1), there is no evidence of what happened in the interval between August 1860 and April 1861, and the Lieutenant-Governor does not concur in the view held by me that the river cannot have changed its course in that interval, and (2), His Honor thinks there is not sufficient evidence to show that the change in 1862 was so entirely by avulsion as to establish the claim of the Kapurthala State.

7. On the first point I would venture to remark that, even if my view is not accepted that the river cannot have changed its course between August 1860 and April 1861, at least the burden of proving that any change occurred during this interval rests on the Amritsar authorities. But no such proof is apparently forthcoming. Mr. Hawkins distinctly states that, so far as he can ascertain, the course of the deep stream in 1860 was under the Amritsar side, and that the only question open to any doubt is whether all subsequent changes by which land was lost to the left bank were by avulsion.

8. On the 2nd point I beg to represent that, if the present decision is maintained, it must rest on the ground that the change in 1862 was entirely by *accretion*, and not only so, but that the change back again into the channel under the Amritsar bank in 1866 was entirely by *avulsion*, that is to say, when the river shifted eastwards in 1862 to the channel where the boundary, as proposed by Mr. Hawkins, has now been fixed, the change was entirely one of accretion, and so Amritsar was entitled to the whole tract then cut off from Kapurthala; while when the river returned to its former channel four years later the change was entirely one of avulsion, and so Kapurthala was not entitled to recover what it had lost in 1862. Again, Mr. Hawkins says that he is unable to go so far as General Taylor's conclusion that all the land in dispute was simple accretion; yet in proposing the maintenance of General Taylor's decision he actually does go so far as that conclusion. It can hardly be expected that such a settlement of the case should be accepted, as Mr. Hawkins seems to suppose it would be, by the Kapurthala Darbar as a "compromise."

9. I trust that I shall be pardoned for reopening this case. It is one of considerable importance, indeed the most important of the river cases which were included in an investigation, and the Kapurthala Darbar have strongly urged me to apply for the review of a decision which they conceive presses very hardly on the State. I would venture again to urge the claims of Kapurthala to take up to the line I marked in the map submit-

ted to Government, a line which Mr. Hawkins admits shows fairly the boundary which would make good the land lost to Kapurthala as shown by the alluvion papers of Amritsar. But if my claim is still considered inadmissible in its entirety, and the compromise is deemed desirable, I would venture respectfully to represent that a real compromise can only be effected by fixing some intermediate line between the boundary claimed by me for Kapurthala and that proposed by Mr. Hawkins.

Endorsement by the Punjab Government.

No. 927, dated 27th September 1880.

FORWARDED in original to Secretary to Financial Commissioner, Punjab, in continuation of No. 506, dated 7th June, for favour of opinion by Financial Commissioner.

(To be returned.)

No. 102, dated 10th February 1882.

From—J. M. DOUIE, Esquire, Secretary to Financial Commissioner, Punjab,

To—The Secretary to Government, Punjab.

Secretary to Financial Commissioner, to Commissioner, Jullundur, No. 6786, dated 4th October 1880.

Secretary to Financial Commissioner, to Commissioner, Amritsar, No. 6787, dated 4th October 1880.

Commissioner of Amritsar, to Secretary to Financial Commissioner, No. 597, dated 21st February 1881, and its enclosures.

Secretary to Financial Commissioner, to Commissioner of Amritsar, No. 1764, dated 16th March.

Demi-official letter from Superintendent, Kapurthala State, dated 3rd April 1881.

Secretary to Financial Commissioner, to Commissioner, Amritsar, No. 2531, dated 14th April.

Commissioner of Amritsar, to Secretary to Financial Commissioner, No. 2695, dated 22nd September, and enclosures.

Two maps.

Commissioner, Amritsar's No. 233, dated 21st January 1882, and its enclosures.

WITH reference to your No. 927, dated 27th September 1880, forwarding, for opinion by the Financial Commissioner, Commissioner of Jullundur's No. 1755, dated 30th August, and its enclosure, consisting of a letter from the Superintendent of the Kapurthala State, in which that officer seeks to reopen the question of the boundary between Kapurthala and Amritsar, I am directed to forward for the orders of His Honor the Lieutenant-Governor, the correspondence marginally noted.*

2. In his No. 54, dated 4th March 1880, Mr. Hawkins, in proposing a boundary line opposite mand Chirághpur, said that the case seemed to him to be eminently one for a compromise, and it was on this understanding that the line he proposed was accepted. Mr. Rivaz, in reopening the case pointed out that Mr. Hawkins' boundary was the same as that claimed by General Taylor in 1876, and Mr. Hawkins admits that his line is practically the same as General Taylor's.

3. The case has to be decided with reference to the position of the river in August 1860, and accepting General Taylor's statement of the position on the deep stream in Sambat 1918 as correct, Mr. Rivaz argues that, while it may not be impossible that changes took place between August 1860 and April 1861, when Sambat 1918 commenced, the onus of proving such changes lies on those who assert their occurrence. It may be noted, however, that Sambat 1918 lasted till March 1862, and it is quite possible that important changes took place between the autumn of 1860 and the spring of 1862. There is nothing in General Taylor's finding to show to what part of the Sambat he referred.

4. In his last letter Mr. Hawkins states that an examination of the alluvion and diluvion returns supports the conclusion that in 1860 the river was close to the line which he has proposed.

5. The question of the position of the stream is doubtful, and would probably remain so even if further enquiry were made. Mr. Lyall admits that Mr. Rivaz had sufficient grounds to justify him in making the representations contained in his No. 100, dated 3rd August 1880, to the address of the Commissioner of Jullundur, but, after considering these and Mr. Hawkins' reply, he is not prepared to advise Government to amend its decision or to order further enquiry.

6. With reference to Commissioner of Amritsar's No. 233, dated 21st January, I am to ask that early orders may be passed.

* Not reprinted.

No. $\frac{93}{274}$, dated Lahore, 7th March 1882.

From—W. M. YOUNG, Esquire, Secretary to Government, Punjab,
To—The Commissioner and Superintendent, Jullundur Division.

WITH reference to Colonel Jenkins' No. 1755 of 30th August 1881, forwarding a letter from the Superintendent of the Kapurthala State, in which he asks for a reconsideration of the orders passed by Government in connection with the boundary line between Desal and Chirághpur, I am directed to forward copies of the correspondence marginally noted for communication to Mr. Rivaz, and to convey the remarks of the Lieutenant-Governor as follows.

Financial Commissioner's No. 102 of 10th February 1881, and enclosures.

2. By the term "compromise" it was not intended to allege that a compromise had been effected as regards the views of Mr. Rivaz and Mr. Hawkins, but that a compromise had been effected as regards the probabilities of those facts of the position of the river and the nature of its action on the two "mands" in 1860 and the subsequent seasons regarding which there is uncertainty. In view of these, General Taylor decided that the lands in question should be divided, and this decision commended itself to the Financial Commissioner and the Lieutenant-Governor; and His Honor does not consider that the reasons alleged by Mr. Rivaz are such as to clear the matter entirely from doubt, and to make it necessary for him to alter the order previously issued. This order will therefore hold good, and steps should now be at once taken to properly define the boundary during the present cold season.

3. A copy of this letter has been forwarded to the Financial Commissioner for information and guidance.

No. $\frac{94}{275}$, dated, Lahore, March 1882.

From—W. M. YOUNG, Esquire, Secretary to Government, Punjab,
To—The Secretary to Financial Commissioner, Punjab.

IN reply to your No. 102 of 10th February, forwarding the views of the Financial Commissioner on the question of the boundary of the Amritsar district and Kapurthala State between Chaks Desal and Chirághpur, I am directed to state that His Honor the Lieutenant-Governor agrees with Mr. Lyall that there is no reason to revise the orders previously issued, and to request that they may now be carried into effect.

2. Copy of a letter on the subject to the Commissioner of Jullundur is forwarded for the Financial Commissioner's information, and the original maps in the case are returned herewith.

Copy of a letter, No. 128-9, dated 7th July 1891, from the Senior Secretary to Financial Commissioner, Punjab, to the Settlement Officers, Amritsar and Ferozepore.

I AM directed to forward to you an extract from a letter from the Settlement Officer of Gurdáspur as to the adoption of a fixed boundary on the Beás between British and Kapurthala territory, and to ask your opinion as to the practicability of laying down such a boundary between $\frac{\text{Amritsar}}{\text{Ferozepore}}$ and Kapurthala.

Extract from a note by L. W. Dane, Esquire, dated 29th June 1891.

It would be very desirable if this opportunity were taken to lay down that the boundary fixed by Mr. C. Rivaz and Mr. Gardiner in 1880 between Kapurthala and Gurdáspur, which was supposed to represent the 1860 course of the river and which has remained practically unaffected by any change in the course of the Beás up to date, should remain the fixed boundary of the State and District and not be subject to any further alterations owing to future changes in the course of the river. No orders need be given affecting proprietory rights which will in practice follow the limit of jurisdiction.

Copy of a letter No. 177, dated 14th July 1891, from J. A. GRANT, Esquire, Settlement Officer, Amritsar, to the Senior Secretary to Financial Commissioner, Punjab.

IN reply to your No. 128 C. of the 7th instant, (Sub-Head 41, File No. 59), I have the honor to say that it would be quite practicable to lay down a fixed boundary in the Beás valley between Amritsar and Kapurthala. The presence of the dhaia or high bank on the Amritsar side, makes the erection of masonry pillars in line, one behind the other, from which the angles of a fixed boundary could be at any time re-laid, exceptionally easy. The pillars would always be near the boundary and at the same time out of the reach of the river.

As to the desirability of a fixed boundary there can be no doubt. At present the boundary is re-laid every year taking up at least a fortnight of the time of a revenue officer. Disputes are apt to occur and I am about to refer one for the decision of Government as I am unable to agree with the contention of the Darbár. The movable boundary is a hardship to the cultivators, who claim proprietory rights in land at or near the boundary. No sooner have they proved their right in the Amritsar Courts than the shifting of the boundary throws the land they claim into the State, and they have to again prove their right against Kapurthala subjects. It is possible there might be some difficulty as to ferries with a fixed boundary-a portion of the river with a ferry on it, managed by Amritsar District Board might be entirely on the Amritsar side of the boundary one season, and the next season the river at this point with the ferry might be entirely on the Kapurthala side. The management of any one ferry might thus shift backwards and forwards within one financial year. But this could no doubt be satisfactorily arranged.

Copy of a letter, No. 170, dated July 1891, from E. B. FRANCIS, Esquire, Settlement Officer, Ferozepore, to J. M. DOUIE, Esquire, Senior Secretary to Financial Commissioner, Punjab.

IN reply to your No. 129C. of 7th instant, I have the honor to state that the river is nowhere now the boundary between Ferozepore and Kapurthala. On the side adjoining Jullundur this district has villages on the right bank of the river, while lower down the Kapurthala State has villages on the left bank. In my opinion there is no reason whatever why the present boundary should not be fixed in perpetuity. I have enquired whether the villages will agree to have their proprietory rights defined in the same way, and in six cases out of ten they consent. The dissentient villages are those in front of whose lands the Kapurthala State has established villages on this bank shutting them out from the river. In case of the river returning to this side and transferring lands of these villages by avulsion to its right bank they should retain their proprietory rights.

No. 8.—*Boundary of Kashmír and British Territory.*

No. 1587, dated Lahore, 30th August 1875.

From—T. H. THORNTON, Esquire, Secretary to Government, Punjab,
To—The Secretary to the Government of India, Foreign Department.

I HAVE the honor, by direction of the Lieutenant-Governor, to address you on the subject of the boundary between British and Kashmir territory from the point where the river Ravi leaves the mountain gorge (near Fort Lakhanpur) and the first of the series of boundary pillars erected by Lieutenant-Colonel Abbott, the Boundary Commissioner, between the Rávi and the Jhelum.

Resolution of the Honorable the Lieutenant-Governor, Punjab, No.180, dated 9th February 1870; and my letter No. 816, dated 9th May 1874, with its annexure.

2. The papers marginally noted, copies of which are forwarded, will explain the state of the case.

3. It will be observed that the boundary between the two points referred to, as laid down by the Boundary Commissioner, is at present the main current of the river Rávi, and is therefore a variable boundary; so that lands which one year are under the political jurisdiction of the British Government may become, owing to a change in the course of the deep stream, transferred to the jurisdiction of the Maháraja of Kashmir in the following year, and *vice versá.*

4. His Highness the Maháraja of Kashmir has expressed a desire that the present variable boundary should be changed for one of a more permanent character, and has agreed either that the boundary should be deemed to run at a distance of half the average width between the two permanent banks taren in a line at right angles from the permanent left bank, or that the *status quo* of present possession being accepted as a starting point, for the future the general rule laid down in the resolution of the Government of India, No. 3631, dated 24th August 1860, should be deemed applicable to the Rávi boundary between Jammu and British territory.

5. The Honorable the Lieutenant-Governor, after discussing the question with His Highness's Prime Minister, was of opinion that the adoption of the latter suggestion would be the best solution of the difficulty, and he directed accordingly that a map should be prepared showing the exact *status quo* of the present time, that is to say, the lands, islands, or belas within the tracts subject to river action, which are at present in possession of His Highness the Maháraja of Kashmir and of the British Government, respectively.

6. A map has now been prepared showing roughly the present boundary of actual possession, which, though of course insufficient for the final decision of the case, will be sufficient probably to enable the Government of India to judge of the desirability of accepting or otherwise the proposals now submitted.

7. In the event of the principle of the proposal being accepted as the basis of decision, the Lieutenant-Governor would recommend that the line of boundary be marked out or indicated by off-sets taken from the permanent left bank, and that it be declared that thereafter, so long as the lands now in possession respectively of the Mahárája of Kashmír and the British Government are identifiable, they shall continue to belong to the respective Governments irrespective of the position of the deep stream of the Rávi.

8. This decision will, of course, simply fix the *political* boundary between Kashmír and British territory, and will not affect the proprietory rights of private parties. It might further be stipulated, if thought necessary, that it shall not affect the respective rights of the British and Kashmír Governments in regard to the use of the waters of the river.

Proceedings of the Honourable the Lieutenant-Governor, Punjab, in the Political Department,—No. 180, dated 9th February 1870.

Resolution.—On the 23rd March 1860, Mr. Cust, Commissioner of the Amritsar Division, brought to the notice of this Government that there was a dispute between the district authorities of Gurdáspur and the Jammu Government officials regarding the boundary between British and Jammu territory from the point where the river Rávi leaves the mountain gorge (near Fort Lakhanpur) and the fiást of the series of boundary pillars erected by Lieutenant-Colonel Abbott, the Boundary Commissioner, between the Rávi and the Jhelum. The distance between Fort Lakhanpur and the point on the river Rávi, where the line of boundary pillars commences, is about eight miles.

2. From the period of Mr. Cust's reference to the present time attempts have been made, from time to time, by local enquiry, to settle the matter in dispute; but hitherto with no result. Meanwhile the question has assumed importance in connexion with claims made by the Forest Department to waif timber stranded in the Rávi along the disputed boundary.

3. The points in dispnte are two—

First—The exact position of the first boundary pillar above referred to.

Second—What is to be considered the exact line of boundary from that pillar to Fort Lakhanpur.

4. With regard to the first point, it is admitted that the original pillar in question has disappeared, and it remains to fix its exact position ; the Jammu authorities fix it at point C in the accompanying map— a point well advanced into the bed of river. The district authorities would place it near the village of Lari, on the right bank of the principal branch. The matter, however, is one which is capable of easy and definite decision. It is admitted that the first pillar was numbered 1598 ; and its distance and bearing from pillar 1597 (which is still standing) are on record ; and its exact position is shown on Lieutenant-Colonel Robinson's Survey boundary map, which was approved of by the Boundary Commissioner, a copy being supplied to the Mahárája. Further, in 1864, after the destruction of the pillar 1598, Mr. Foy, Assistant Surveyor, was deputed to re-survey the boundary, and on the above data fixed the position of the pillar No. 1598 at point A in the accompanying map on the right bank of the main branch of the river near the village of Lari—the exact position assigned to it in Lieutenant-Colonel Robinson's map. This question, therefore, must be considered as definitely decided beyond all possibility of doubt, and the Deputy Commissioner of Gurdáspur will proceed, in company with an official deputed by His Highness the Mahárája, to erect a substantial masonry pillar in the place indicated in the map of Mr. Foy, and insert therein a stone slab engraved with the number 1598.

5. With regard to the second point,—that is, the line of boundary between pillar 1598 and Fort Lakhanpur,—the Jammu authorities assert that the boundary runs from point C, in the bed of the Rávi, and follows an irregular line (marked blue in the accompanying map), keeping pretty close to the *left* bank of the river bed. The Forest Department claims that the boundary should be considered to run from point A and follows an irregular lime (marked green in the accompanying map, which is a copy of that forwarded by Mr. Foy), keeping close to the *right* bank of the main bed of the river; and the claim is based on the fact that this is the boundary shown by a red colored wash between point A and Foot Lakhanpur in Lieutenant-Colonel Robinson's map.

6. For deciding this question, the following data are available:—

First.—There is the treaty of 1846, which assigns to Mahárája Guláb Singh "all the hills and mountainous territory, with dependencies * * * westward of the river Rávi"; and also stipulates that the eastern boundary of the tract is to be further defined by Commissioners.

Secondly.—There is a vernacular map, prepared by the Boundary Commissioners, in which the following note occurs:—"From pillar No. 1598 to Fort Lakhanpur the Rávi river is the boundary."

Thirdly.—There is a memorandum by Major-General Abbott (enclosure to letter of 19th February 1867), explanatory of the principles on which the boundary was laid down, from which the meaning of the words "the river Rávi is the boundary" can be inferred. In this memorandum Major-General Abbott observes:—

"It was impossible in some cases to avoid the river boundaries.

"When the river was a single clear stream without cultivated islands, the main current was laid down as the boundary, and one boundary pillar of masonry was planted where the boundary from the east first entered the river; and another, where it left the river though the interval, should be of many miles.

"When the boundary ran through the inhabited islands of a river, as in the Jhelum, above the town so named, pillars were built all along the line dividing lands, and on either side of the subordinate arms of the river where these formed the boundary.

"Where the boundary line entered a river and ran up the main stream for miles the boundary pillars were generally of greater size and stability than the ordinary pillars.

"As rivers in India are constantly encroaching upon the land at their salient curves, and receding from it at their re-entering curves, and village lands become thus transferred from one State to the other, it was ruled that the proprietor of such village should remain, notwithstanding still proprietor, paying his dues to each State according to the extent and value of his lands in either."

7. From the above it appears clear to the Honorable the Lieutenant-Governor that it was the intention of the Boundary Commissioners that from pillar 1898 to Fort Lakhanpur ***the main current of the river Rávi should be the boundary between British and Jammu territory***; and further, that it was intended that the line of boundary ***should not be fixed one, but vary with the changes of the main stream.*** As for the argument drawn from the position of the red mark in Colonel Robinson's map, that is merely a line of color, and, consequently, could never have been intended as a permanent line of boundary; but its position is quite in accordance with the views above expressed, for it follows closely ***what was then the main stream of the Rávi.***

8. There are doubtless great inconveniences attending a variable boundary line; but that such was the boundary intended by the Commissioners in this instance appears to His Honor to be beyond question. Accordingly, His Honor is pleased to direct that as soon as possible after the 1st October, in each year, a party, consisting of the Executive Engineer in charge of the canal at Mádhopur, a Tahsíldár or other official appointed by the Deputy Commissioner of Gurdáspur, and an official appointed by the Mahárája of Kashmír, shall proceed to determine the deep channel of the stream between Fort Lakhanpur and pillar No. 1598, which shall be considered the boundary for the year, and regulate all claims to waif timber stranded. on each side of the deep-stream.

ORDER.—Ordered, that a copy of the foregoing Resolution, with a copy of the map referred to (the original being recorded in this office), be forwarded to the Secretary to the Financial Commissioner, for information and issue of the necessary orders, with reference to his No. 487, dated 11th June 1869, and previous correspondence; and that the original papers of the Financial Commissioner's office be returned.

Also that a copy of the Resolution and map be forwarded to the Public Works Department for information.

Also that a translation of the Resolution and copy of the map (the names, &c., thereon being written in vernacular) be forwarded to His Highness the Mahárája of Jammu and Kashmír, with a request that His Highness will depute an officer to the Deputy Commissioner of Gurdáspur for the purpose of inspecting the site of the new boundary pillar, and being present at the determination of the line of the main stream between that point and Fort Lakhanpur.

No. 816, dated Lahore, 9th May 1874.

From—T. H. THORNTON, Esquire, Secretary to Government, Punjab,
To—The Officiating Secretary to Financial Commissioner, Punjab.

WITH reference to correspondence ending with my letter No. 513, dated 12th April 1873, on the subject of the Rávi boundary between Jammu and British territory in the district of Gurdáspur, I have the honor to annex copy of a note of a representation made personally to His Honor the Lieutenant-Governor by His Highness' Prime Minister, Diwán Kirpa Rám, upon the subject at Mádhopur on the 4th April last.

2. His Honor, I am desired to state, is prepared to support the latter of the two proposals made by His Highness, *viz*, that hereafter the general rule laid down in the Resolution of the Government of India, No. 3631, dated 24th August 1860, should be deemed applicable to the Rávi boundary between Jammu and British territory.

3. In order, however, that the case may be submitted to the Government of India in a complete form, it is necessary that a map should be prepared showing the exact *status quo* of the present time, that is to say, the lands, islands, or belás within the tracts subject to river action which are at present in possession of His Highness the Mahárája of Kashmír and of the British Government respectively.

4. I am to request accordingly that the Financial Commissioner will arrange for the preparation of the map required.

5. It is possible that Colonel Robinson's boundary map will be found sufficient for the purpose, and that all that will be necessary will be to mark on that map in suitable colouring the lands in possession of His Highness the Mahárája of Kashmír and the British Government, respectively.

Mr. Foy's survey map of the disputed boundary is herewith enclosed.

Note of representation made personally to His Honor the Lieutenant-Governor by Diwán Kirpa Rám, Prime Minister of Kashmír.

To-day the following questions were considered by His Honor the Lieutenant-Governor in the presence of—

Lieutenant-Colonel P. P. O'Connell, R.E., Chief Engineer of Irrigation.

Captain W. Broadfoot, R.E., Personal Assistant to Chief Engineer.

T. H. Thornton, Esquire, D.C.L., Secretary to Government, Punjab.

Diwán Kirpa Rám, Prime Minister to His Highness the Mahárája of Kashmír.

Diwán Gobind Sahái, Motamid.

* * * * * * *

Secondly, the subject of the boundary between British and Jammu territory between the point where the line of boundary pillars impinges upon the Rávi and Fort Lakhánpur to the north.

In Resolution No. 180, dated 9th February 1870, it was explained that it was the intention of the Boundary Commissioners that from pillar 1598 to Fort Lakhanpur the main current of the river Rávi should be the boundary between Jammu and British territory, and further, that it was intended that the line of boundary should not be a fixed one, but changing with the change of the main stream.

In a letter from His Highness the Mahárája, dated 6th April 1870, His Highness requested reconsideration of the subject, and in the beginning of May 1870 the matter was discussed between the Secretary to Government, Mr. Johnson, and Diwán Kirpa Rám at Siálkot. It was there admitted that it was the intention of the Boundary Commissioners that the main current of the Rávi should be the boundary between British and Jammu territory, but it was urged that, as the course of the river had been altered owing to the dams erected in connection with the Bári Doáb Canal, the main current was not suitable as a boundary, and it was suggested that either the boundary line proposed by Mr. Cust in 1860 should be adopted, or that the boundary line should be fixed by taking the average width of the river between the permanent banks and declaring that the boundary should be deemed to run at a distance of half the average width of the river taken in a straight line from the permanent left bank.

In reference to the above, the late Lieutenant-Governor, Sir Donald Macleod, stated that he was not then prepared to accept either suggestion, but observed that if it should be found on trial that there was serious practical difficulty in discovering the main current of the Rávi the matter should be reconsidered.

Diwán Kirpa Rám now on behalf of His Highness the Mahárája suggested a reconsideration of the orders. He urged that of late years considerable changes had taken place in the direction of the main current of the Rávi (partly effected by the dams erected by the Canal Department); so that near Mádhopur the main stream of the river now flows close by the British bank, while lower down the main stream had taken a westward course, leaving several villages, formerly on the Jammu side of the main stream, on the British side thereof. Under the above circumstances Diwán Kirpa Rám expressed, on behalf of His Highness, his readiness to accept the boundary suggested at the Siálkot conference, *viz.*, that it should be deemed to run at a distance of half the average width between the two permanent banks taken in a line at right angles from the permanent left bank, or to agree that the general rule laid down in the Resolution of the Government of India, No. 3631, dated 24th August 1860, should be hereafter deemed applicable to the Rávi boundary between Jammu and British territory.

In reply to a question put to him on the subject of "waif," he observed that in the event of the latter course being adopted it will be necessary to make some definite arrangement as to the division of waif timber stranded on the numerous islets which appear on the subsidence of the river after the annual rains. But this will be a matter of special arrangement hereafter.

No. 3034P.

GOVERNMENT OF INDIA—FOREIGN DEPARTMENT.

POLITICAL.

Fort William, 8th December 1876.

READ the following papers :—

From Secretary to Government, Punjab, dated 30th August 1875, No. 1587.		
To	Ditto,	dated 11th November 1875, No. 2283G.
From	Ditto,	dated 17th October 1876, No. 1604.

RESOLUTION.—The subject referred to in the above-mentioned correspondence having been again discussed at Mádhopur by the Officiating Foreign Secretary with Diwán Jowála Sahái, Prime Minister, and Diwán Gobind Sahái, Confidential Agent of His Highness the Mahárája of Kashmír, on the occasion of the meeting between His Highness and His Excellency the Viceroy, the Right Honorable the Governor-General is pleased to approve generally the proposals made by the Punjab Government in 1874, and accepted by Diwán Kirpa Rám on behalf of the Kashmír Government.

2. It is therefore directed that, from the 1st January 1877, the deep stream of the Rávi shall no longer be the boundary between Kashmír and British territory from pillar 1598 to Fort Lakhanpur, but that a permanent boundary shall be fixed.

3. The said boundary shall, subject to the deviation hereinafter noted, be a line drawn, so far as may be, along the centre of the river bed between the two permanent high banks; and the line shall be made readily ascertainable by the erection of a series of square pillars on the permanent left bank, on each of which pillars the distance of the boundary therefrom shall be inscribed.

4. But though the present centre of the river bed shall be taken generally as a guide in laying down the permanent line of boundary, yet, if in any case the Mahárája has held and is in possession of, or has exercised and is exercising jurisdiction in the lands which on the above principle would be on the British side of the line, such possession shall not be disturbed, but the lands should be deemed to be Kashmír and not British territory. In the event of the fact of possession or exercise of jurisdiction being doubtful, the doubt shall be given in favor of His Highness, and the disputed land be deemed to be Kashmír, and not British, territory.

5. After the permanent boundary line shall have been fixed on the principles and in the manner above set forth, an accurate map of the locality shall be prepared for record in the office of the Punjab Government, and an attested copy forwarded to His Highness the Mahárája of Kashmír and to the local authorities.

ORDER—Ordered, that a copy of the above Resolution be sent to the Punjab Government for information and guidance, with the remark that, as the case has been long under consideration and a decision has been pressed for by His Highness the Mahárája, the Right Honorable the Governor-General has been pleased to direct the Deputy Commissioner of Gurdáspur, Mr. R. Burney, in communication with two officials appointed by His Highness the Mahárája, namely, Mehta Sher Singh and Ghulam Ali Shah, to take action at once and mark out the boundary on the principles and in the manner above described. A copy of the map when prepared should be sent to the Government of India.

Foreign.

Endorsement by Punjab Government, No. 2121, dated 15th December 1876.

COPY forwarded to Financial Commissioner for information and guidance and communication to the Commissioner of Amritsar in view to the necessary instructions being issued to Mr. Burney, Deputy Commissioner of Gurdáspur.

No. 431 S., dated Simla, 25th August 1877.

From—LEPEL GRIFFIN, Esquire, Officiating Secretary to Government, Punjab,

To—The Officiating Secretary to the Government of India, Foreign Department.

I AM directed by the Honorable the Lieutenant-Governor to forward, for the information and orders of the Government of India, a letter from the Financial Commissioner, No. 451 of the 18th May, submitting a report, furnished through the Commissioner of Amritsar, by Mr. Burney, late Deputy Commissioner of Gurdáspur, on the adjustment of the Kashmír boundary line on the Rávi, and to make the following observations.

2. This case, although it concerns a tract of land the revenue of which is trifling, being somewhat under Rs. 300 a year, appears to the Lieutenant-Governor of considerable importance, both as regards the position which should be assumed by the Imperial Government towards a feudatory State, and involving what would seem to be the clearly established rights of British subjects.

3. The report of Mr. Burney, Deputy Commissioner of Gurdáspur, has been written with much care, and after an exhaustive examination both of the ground in dispute and of such evidence, oral and recorded, as was procurable; but the conclusion arrived at by him appears to the Lieutenant-Governor to be unsustainable, to be both unjust to British subjects, and to stretch further than was intended the generous expressions contained in the Government of India Resolution concerning this disputed territory. When His Excellency the Viceroy was at Mádhopur last November, the subject of the disputed boundary between Kashmír and British territory was discussed with His Highness the Maháraja, and certain conditions were there laid down which His Highness accepted, which were included in the Foreign Department Resolution No. 3003, of the 8th December, and in accordance with which the present case must be decided.

4. This Resolution laid down that from the 1st January 1877 the deep stream of the river Rávi should no longer be the boundary between Kashmír and British territory, but that a line should be drawn, so far as might be possible, along the centre of the river bed between the two permanent high banks. The method in which this line was to be determined was also detailed. And it was further directed that the decision should be made with all care for the interests of His Highness the Maháraja, who was, in cases of doubt, to receive the benefits in regard to questions of land lying to the British side of the line so fixed, should it be proved that he had held or was in possession of, or had exercised and was exercising, jurisdiction within such land, and even though there might be a doubt as to the jurisdiction.

5. In the present case the only lands which are affected by this clause of the Resolution are certain islets or *belás* lying in or about the mid-stream of the Rávi, generally useless for grazing purposes, but bearing an abundant growth of reeds, which are or have been, within recent times, in the possession of the Maháraja. These it is proposed, and His Honor thinks entirely in accordance with the terms of the Resolution, justly proposed, to be surrendered to His Highness. But there is further a valuable tract of land immediately under the river bank on the British side, partly cultivated by British zamíndárs and partly used by them as grazing grounds over which the Maháraja has at the present time clearly no claim whatever, and exercises no jurisdiction. Ever since annexation it is proved that this land has been in possession of British villagers; it is shown by a sanad of Captain Abbott's that the right of the British villagers existed previous to annexation, and under the terms of the Resolution the Lieutenant-Governor cannot hold that this land could be justly surrendered to the Maháraja.

6. The Deputy Commissioner's proposal to draw the line 200 yards from the British bank, surrendering two-thirds of the valuable land in dispute, 600 acres in extent and with an estimated revenue of Rs. 280 per annum, seems to Mr. Egerton to be both inequitable to the British zamíndárs concerned, and to be opposed to the terms of the Resolution. The evidence of Mr. Burney's report goes to show that there is absolutely no ground whatever upon which His Highness the Maháraja could found such a claim, and having regard to the extreme liberality of the concessions made with regard to the other points at issue, His Honor the Lieutenant-Governor considers that the proposal is one which should not be entertained, involving as it does the surrender of British territory, the abandonment of the rights of British subjects, and a departure from the recognized policy for many years past of the Government of India.

7. The Honorable the Lieutenant-Governor concurs in the views expressed by the Commissioner and Financial Commissioner, and is of opinion that the Kashmír Government should be held bound to the very precise and clear terms of the Resolution, by which, in the interview with His Excellency at Mádhopur, the Maháraja proposed his readiness to abide, and that on no account hould the land on the British side of the river, exclusive of the *belás* before spoken of in mid-stream, be surrendered to the Kashmír Government.

No. 451, dated 18th May 1877.

From—J. A. E. Miller, Esquire, Secretary to Financial Commissioner, Punjab,
To—The Officiating Secretary to Government, Punjab.

In compliance with your No. 2121 of 15th December 1876, I am directed to submit the report furnished by Mr. Burney, late Deputy Commissioner of Gurdáspur, on the adjustment of the Kashmír boundary line on the Rávi, received from Commissioner, Amritsar, with his No. 170 of 30th April.

2. Mr. Ouseley considers that Mr. Burney has correctly interpreted the Resolution of the Government of India, No. 3034, Foreign Department, of 8th December 1876, and that the line which he proposes, if it has any fault, errs in being too favorable to the Maháraja of Kashmír.

No. 170—1041, dated Amritsar, 30th April 1877.

From—H. E. Perkins, Esquire, Commissioner and Superintendent, Amritsar Division,
To—The Secretary to Financial Commissioner, Punjab.

I have the honor, in reply to your No. 183, dated 17th January, and enclosure, to forward original report from Deputy Commissioner, Gurdáspur, No. 96, dated 20th March last, with enclosed map, reporting on the disputed boundary with the Kashmír territory. As there was an ambiguity in the 9th paragraph of that document I wrote my No. 103, dated 7th current, of which I send a copy, together with a copy sent me by Deputy Commissioner, of Mr. Burney's explanation contained in his letter of the 19th idem to that officer.

2. The gist of these papers is that the question seems as far as ever from settlement. Mr. Burney takes the wording of the Resolution to indicate that the Supreme Government desire the Maháraja to have land which was and is in his possession, whereas the Maháraja not only bases his whole claim on the past, omitting all reference to the present aspect of possession, but, going beyond this, raises claim to land which Mr. Burney gives reasons for considering never was other than it now is in possession of the men of British territory, or, to put an extreme construction on certain observed physical facts, may have been, as to some parts of it, debateable ground, between the men residing on the two banks.

3. Unfortunately this view of the case places the Kashmír authorities in a worse position than they occupied when the former offer of compromise was made by the British Government, and hence they object to it. Mr. Burney has made a new offer to meet this difficulty conceived in a spirit of marked indulgence towards our ally, and, I may add, in a spirit which our own subjects will not consider one of justice. It is that two-thirds of the land, which is really wanted by Kashmír, shall go to that power, the remainder continuing British territory. When a matter has been so often before the Government of India it were presumption in me to comment on it save than by offering the remark that I think the Kashmír officials should be held to the bargain which they made with His Excellency the Viceroy in person, and the simple fact that the measurements have turned out to be against them ought not to avail to upset a deliberate arrangement.

4. Mr. Burney spent 10 days over this business, and has treated the subject in an apparently fair manner : so that although his final proposal goes more in favour of the Kashmír State than I imagine His Excellency the Viceroy meant, he deserves, in my opinion, the thanks of the Government for his full and lucid report.

No. 103-784, dated 7th April 1877.

From—H. E. Perkins, Esquire, Commissioner and Superintendent, Amritsar Division,
To—The Deputy Commissioner, Gurdáspur.

With reference to his No. 96, dated 20th ultimo, requests to be favored with the exact measurements across the river taken at the 13 different points alluded to by Mr. Burney in paragraph 9 of that letter where the words "the average breadth is 612 yards" ought apparently to be "half the average breadth is 612 yards."

No. 146, dated 25th April 1877.

From—Lieutenant-Colonel F. J. Miller, Deputy Commissioner, Gurdáspur,
To—The Commissioner and Superintendent, Amritsar Division.

In reply to his No. 103-784, dated 7th instant, begs to submit copy of a letter from Mr. R. T. Burney on the subject of measurements taken by him across the river Rávi in connection with the boundary question.

Dated 9th April 1877.

From—R. T. Burney, Esquire, Superintendent, Chamba,

To—The Deputy Commissioner, Gurdáspur.

In reply to your No. 271, dated 12th instant, I have the honor to state that the river was originally measured in 13 places by Mr. Maconachie when deputed to make a map of the ground in 1875. The figures were as per margin.* I had intended to take these figures into my calculations and to add them to my own measurements, but at the last moment the Diwán objected to them. Accordingly as the centre of the bed of the river is of no use to any body, and as it was important to settle the matter if possible, I calculated the half of the bed on my own measurements only, which were as per margin. †

* 1,000
1,650
1,333
1,221
1,266
1,173
1,566
1,650
1,800
1,416
1,166
1,766
1,078
13,18,085
2,1,391
†695

† 1,000
1,650
1,221
1,173
1,078
56,122
21,224
612

At the time that I was measuring the river the melted snow had swollen the stream to such an extent that it was impossible to cross it either in a boat or on an elephant, otherwise I should have measured it at more places. At the same time the distance at which I have put the centre line is a concession to the Mahárája without injuring our own zamíndárs. I fear that in paragraph 32 I may not have made myself intelligible. The boundary line I propose is to be 200 yards from each of the pillars built by me, plus the distance between the pillar and the present permanent high bank. Most of the pillars are built at some little distance from the edge of the high bank, lest the stream should carry part of the high bank away. The distance between the pillars and the present permanent high bank are given in the map.

In paragraph 9 the words "average breadth is 612" should be "half the average breadth is 612 yards"

No 96, dated Gurdáspur, 20th March 1877.

From—R. T. Burney, Esquire, late Deputy Commissioner, Gurdáspur,

To—The Commissioner and Superintendent, Amritsar Division.

With reference to your No. 12-105, dated 29th January last, forwarding Secretary to Government's letter No. 2121, dated 15th December 1876, enclosing the resolution of Government in Foreign Department, No. 3034, dated 8th December 1876, I have the honor to state that on receipt of your letter I wrote to Mehta Sher Singh and Ghulám Alí Shah to meet me on the boundary. Owing to heavy rains we did not meet till 24th February, when on arriving on the banks of the river I found that Diwán Gobind Sahái had been sent as well as Sher Singh and Ghulám Ali Shah. I remained a week with them travelling over the bank and bed of the river, examining the ground, taking measurements, and hearing what each party had to say. On 3rd March I was ordered away to Amritsar to take over charge of the office of Superintendent of Chamba, but returned as soon as I could to the river, and after three more days spent in going over the ground, I have the honor to submit my report.

2. The question at issue appears to be as follows:—

From the annexation of the Punjab the boundary between Kashmír and the British Government has been the deep stream of the Rávi, on the left bank of which are the British villages of Mádhopur, Bheri, Mirzapur, Chanu, Badráli, Basrúp, Jhandpur, and Bani Lodi. The Kashmír Fort of Lakhanpur is opposite Mádhopur, which is the most northern of the British villages, and opposite Bani Lodi stands pillar No. 1598 on the Kashmír side, which is the most southern point on the disputed line. The bed of the river opposite Mádhopur, Bheri, Mirzapur, Chanu, and Badráli is for the most part stony, but it contains some reed-bearing eyots, most of which are about the centre of the river and in possession of Kashmír. Opposite the villages of Basrúp, Jhandpur, and Bani there are also some eyots about the centre of the river, which are in possession of Kashmír, but close under the three villages is a tract of land 834 ghumáos in extent, of which 261 ghumáos is at present under cultivation, and the greater part of the remainder is fit for grazing.

3. Diwán Gobind Sahái on the part of the Kashmír Government claims all the eyots which Kashmír now holds, and he also claims the 834 ghumáos of culturable and grazing land. He states that because at annexation the deep stream, which was then the boundary between the two Governments, flowed immediately under the permanent left bank, which is still clearly recognizable and defined, the boundary line now to be drawn should run along the permanent left bank under the villages of Bani Lodi, Jhandpur, and Basrup. With respect to the remaining villages he is quite content that a line drawn at half the average width should be the boundary except in those places where the eyots of which he is in possession overlap the line on the British side.

4. If the line be drawn as Diwán Gobind Sahái wishes, the aforesaid 834 ghumáos of land opposite Bani Lodi, Jhandpur, and Basrúp, and the eyots opposite Bhadráli and Bheri would belong to Kashmír.

5. Now the eyots opposite Bhadráli and Bheri are of little consequence, and any question concerning them can be easily disposed of, but the main object of the Kashmír Government is to obtain the valuable tract of culturable and grazing land opposite Bani Lodi, Jhandpur, and Basrúp.

6. The words of the Resolution are "the said boundary shall . . . be a line drawn . . . along the centre of the river between the permanent high banks . . . yet if in any case the Mahárája has held *and* is in possession of, or has exercised *and* is exercising jurisdiction in the lands, which on the above principle would be on the British side of the line, such possession shall not be disturbed, but the lands should be deemed to be Kashmír . . . In the event of the fact of possession or exercise of jurisdiction being doubtful the doubt shall be given in favor of His Highness."

7. I draw special attention to the use of the word "and" in the sentence "if . . . the Mahárája has held *and* is in possession of, or has exercised *and* is exercising jurisdiction in the lands." It is clear from this that there must be evidence that the Mahárája not only has been in possession of, but is also at this time in possession of the lands claimed, or there must be evidence that the Mahárája has not only exercised jurisdiction, but is also at this time exercising jurisdiction in the lands in dispute.

8. The question therefore is what land is at present in possession of Kashmír, and it is at once perfectly clear that the 834 ghumáos opposite Bani Lodi, Jhandpur, and Basrúp are not in Kashmír possession. The zamíndárs of Jhandpur and Bani Lodi can be seen any day tilling the disputed land in their villages, whilst in Basrúp the crops have been raised this year by zamíndárs of other British villages located there by the orders of the British Government. These facts are not disputed by the Kashmír Government, and if the condition of present possession or present jurisdiction is to be insisted on, the Kashmír Government will get none of these 834 ghumáos ; all that will be assigned to them will be the reed-bearing eyots, overlapping the centre line.

9. The river has been measured in 13 places between the pillar alleged to be 1598 and Lakhanpur Fort and half the average breadth is 612 yards. Therefore whatever eyots are now in the hands of the Mahárája within 612 yards of the permanent left bank are to be made over to him. Opposite Bani Lodi there is an eyot 603 yards; opposite Basrúp and Bhadráli there are eyots 580 yards from the permanent left bank, and opposite Chanu and Bheri there is an eyot the nearest point of which is 696 yards from the permanent left bank. All these will now belong to Kashmír.

Part of this eyot is cultivated.

10. If no more than this is to be awarded to the Kashmír Government, the decision would of course not give satisfaction to them, and the Diwán accordingly tells me that if I were to decide the case on the principle of present possession he is quite certain that the Mahárája would not agree, as he has refused better terms than this before.

11. Under these circumstances it will be better to lay before Government the whole bearing of the case in order that, if it should be thought advisable not to insist on the condition of present possession and to grant better terms, it may be in the power of Government to settle this long standing dispute without further delay.

12. Supposing that Government are willing to relax the condition of present possession and to make over the culturable and grazing land opposite Basrúp, Jhandpur, and Bani Lodi to the Kashmír Government, if they can show that they had possession of it formerly, the case may be stated as follows :—

13. The Settlement papers show that the deep stream at the time of annexation did flow under the permanent left bank opposite the three villages of Bani Lodi, Basrúp, and Jhandpur. From this the Diwán argues that as the deep stream was the boundary, the Kashmír Government was in sole possession of the whole of the bed of the river in front of these three villages, and that none of it should now be retained by the British Government, as they were not in possession at the time of annexation.

14. Our zemíndárs state that though the deep stream did run under the permanent left bank, yet that, as the river flowed almost under their doors, they and their cattle used to cross it every day, and that they exercised just as much possession over the bed of the river by grazing cattle and by cutting reeds as did the subjects of the Mahárája. When the deep stream had shifted and a tract of land was thrown up in the year 1856 opposite the three villages and on the right-hand side of what had formerly been the deep stream, our zamíndárs took possession of it, cultivated it, and paid revenue for it.

15. The issues to be decided are. (1) Can it be proved that Kashmir has ever exercised possession or jurisdiction over the whole of the river bed? (2) What should now be the boundary line?

16. The zamíndárs on either side have been examined. The zamíndárs on the Kashmír side declare that when the deep stream flowed on the left side they were in possession of the whole bela ; that they grazed their cattle on the eyots ; that the Mahárája's officials yearly sold a contract for cutting the reeds on the eyots, though zamíndárs were

allowed to cut reeds sufficient for their wants. They also state that our zamíndárs did not graze on the bela at all; that if they or their cattle were ever seen there by the Kashmír zamíndárs they were arrested; that they purchased reeds from the Kashmír officials; and that directly they cultivated the arable land the quarrel commenced.

17. In reply to this the zamíndárs of Bani Lodi and Basrúp state that they and the Kashmír people grazed in the bela just as they pleased, though each party naturally kept near their own side; that they were never stopped at all; that they cut the reeds on their own side to build their huts; that they never purchased reeds except on one occasion when one of their number bought the contract of the reeds on the other side to make money by it and lastly, that they had cultivated some of the land long before the quarrel commenced.

18. Besides this, it is stated by old men that the former site of the village of Bani Lodi was actually some distance on the right side of what was the deep stream and actually in the middle of the disputed tract 60 years ago. This has not been contradicted by any body and appears perfectly true.

19. Now it appears to me impossible to suppose that our zamíndárs were not in the habit of crossing the deep stream when it flowed under the left bank, or of grazing their cattle on the further side. It is admitted that the river was fordable except in the rains. It flowed almost under the doors of the people of Bani Lodi and Basrúp. They owned no other land for grazing. They live in reed sheds and had no other land for cutting reeds from except the river bed. The river is of very great width, containing many belás. The Kashmír villages seem too distant to have been able to keep our zemíndárs off the land even if they were disposed to do so. If it is admitted that our zamíndárs never went on the bela except by stealth or with leave, then we must also suppose that they never stirred out of their doors in the direction of Kashmír without the leave of the Kashmír zamíndárs, or without the fear of being arrested.

20. It is idle to suppose that with a vast undemarcated tract of bela land in front of them our zamíndárs would refrain from using it for grazing or for cutting reeds. It appears to me certain that both parties used the land, and it is most probable that each party would naturally keep nearer to its own side than to the other. This is the status of to-day. The deep stream has gone over to the Kashmír side, but all along the bed of the river can be seen the villagers on both sides using the land immediately in front of their villages for grazing cattle or for cutting reeds. Our zamíndárs keep towards our side and Kashmír's to their side. There is no reason to suppose that 30 years ago there was any difference when the deep stream was under the left bank.

21. The Diwán has stated that though the bed of the river was never measured, yet that there are papers in the Office of the Kashmír Government which show that all the belás were in his possession and were sold every year.

22. These papers have not been shown to me, and, in fact, were only mentioned by the Diwán at my last interview with him. But it seems to me most improbable that they can prove that the Kashmír Government exercised proprietory rights over the *whole* bed of the river. No one denies that they owned half the river, and as the extent of the tract was never ascertained, little light could be thrown by the production of these papers. On the other hand, the zamíndárs of Basrúp have a sanad, signed by Captain Abbott, in which it is stated that they used to possess 800 ghumáos of land in the river bed, which had been washed away before the first settlement, and which must have been actually on the site of the land now in dispute.

23. It is further stated by the Diwán that 19 or 20 years ago Dal Singh, Lambardár of Bani Lodi, actually took the contract from the Mahárája's officials of cutting reeds, and the Diwán argues from this that Dal Singh could not have had any right of his own to cut reeds if he bought them from the Mahárája.

24. It is admitted by our zamíndárs that Dal Singh did buy the reeds, but they say that he did so simply to sell them and to make money by the transaction. He had the right of cutting reeds on his own side, but he had not enough on his own side to make money by. However this may be, I cannot consider it distinct proof that Dal Singh had not reeds of his own.

25. The Diwán has further stated that at the late meeting between His Excellency the Viceroy and the Mahárája, His Excellency stated that he would give up all the land in dispute. I have of course no means of judging what are the intentions of Government except from the Resolution.

26. On the whole, after weighing the evidence in the case for many days, I am of opinion that giving the Kashmír Government the benefit of the doubt, they cannot be considered to have ever been in proprietory or adverse possession of the *whole* of the river bed from the permanent right bank to the permanent left bank. I believe that each side grazed on the land, and there are now no boundary marks or any means whatever of deciding how far the occupation of each party extended.

27. If this is admitted by the Government to be the correct view of the case, the natural boundary would appear to be a line drawn down the centre of the river, except in those places where the Kashmír Government is now in possession of some bela land which would somewhat everlap the line. But this is exactly the conclusion that was before arrived at when considering the question of present possession, and the Diwán objects to it.

28. It appears therefore necessary to propose more favorable terms, for I cannot suppose from the spirit of the Government order that it was intended that less favorable should be given than were offered originally.

29. It is suggested therefore that, in order to dispose of the matter, two-thirds of the culturable and grazing land immediately in front of Bani Lodi, Jhandpur, and Basrúp be given up to the Mahárája, and that the boundary line shall in future run at a distance of 200 yards only, instead of 612 yards from the permanent left bank in front of those three villages. I cannot propose that all the land in dispute should be given up, as some consideration should be shown to the zamíndárs of those villages who have for so many years either tilled or grazed their cattle on the land in front of their houses. If the whole land were given up Bani Lodi and Basrúp would not be able to stir 20 yards from their houses without trespassing on foreign territory, and I fear that after so many years of dispute no friendly feeling exists between the two parties.

30. After having spent a considerable time in the neighbourhood of these villages, and having full opportunities of watching the feeling on both sides, I am of opinion that it would not be expedient to draw the boundary line so near the doors of the people of Bani Lodi and Basrúp. Unless some margin is left to our zamíndárs there will be constant quarrels, not between them and the Kashmír zamíndárs, who do not appear to be at all concerned in the matter, but between our zamíndárs and the Kashmir officials. I therefore trust that some at least of the land which our zamíndárs have held so long be left to them.

31. If my suggestion that 200 yards be considered the boundary be accepted, Kashmír will obtain nearly 600 acres of land and a revenue now estimated at Rs. 281.

32. I have erected 26 pillars along the permanent left bank between the southernmost limit of Bani Lodi and the northernmost limit of Basrúp. If the boundary suggested by me be approved of,—and I sincerely hope that it will be approved of,—nothing remains but to declare that the boundary line extends 200 yards from each pillar in the direction of the bed of the river.

33. If, on the other hand, it be intended by the Government that the centre line is to be adopted subject to the deviations on account of *belás* in Kashmír possession, the distance from the pillars to the boundary line will be 612 yards, except in those cases where the Kashmír *belás* overlap the centre line.

34. No orders have been issued to me respecting the waif timber; but the Diwán states that he is perfectly willing to have all the waif timber that may be stranded on either side of the river in front of Bani Lodi, Jhandpur, and Basrúp, divided equally between the two Governments.

Copy of a letter, No. 357, dated 1st March 1878.

From—Lepel GRIFFIN, Esquire, Officiating Secretary to Government, Punjab, and its Dependencies,

To—H. E. PERKINS, Esquire, Commissioner and Superintendent, Amritsar Division.

I AM directed to forward to you copy of Foreign Department letter No. 421 P., dated 16th February, approving Mr. Burney's adjustment of the Kashmír boundary line on the Rávi, and, with reference to paragrah 3 of the same, to request that you will report as to what will be the probable effect on the zamíndárs of the Government of India instructions, and what compensation or arrangement would be necessary.

Copy of a letter, No. 421 P., dated Fort William, 16th February 1878.

From—T. J. C. PLOWDEN, Esquire, Offg. Under-Secretary to the Government of India, Foreign Department,

To—To Offg. Secretary to Government, Punjab.

I AM directed to acknowlege your letter No. 431S, dated 25th August 1877, submitting a report by Mr. Burney, late Deputy Commissioner of Gurdáspur, on the adjustment of the Kashmír boundary line on the Rávi.

2. In reply, I am directed to say that His Excellency the Viceroy having considered all the circumstances of the case, and being desirous of dealing liberally with His Highness the Mahárája of Kashmír, has decided to approve Mr. Burney's settlement, subject to the following modification, and provided that it be understood that the matter is hereby finally settled:—Instead of making over to the Kashmír Government two-thirds of the Bani Lodi, Jhandpur, and Basrúp lands, Gouernment will, as a matter of grace and favour, transfer to His Highness the Mahárája sovereignty over half the lands in question But this transfer of jurisdiction does not affect the cession of the proprietory rights of the zamíndárs, which must be inviolably maintained.

3. I am to add that if the land-owners can show that they really are injured, or even if they be unwilling to live under the jurisdiction of the Kashmír Government, it will be for the local authorities to consider whether any, and if so, what compensation should be given them.

Copy of a letter, No. 798, dated 14th March 1878.

From—The Commissioner and Superintendent, Amritsar Division,

To—The Offg. Secretary to Government, Punjab.

In answer to your No. 357, dated 1st instant, I have the honor to observe that the owners of the land in question will object to the transfer of sovereignty contemplated by the orders of the Government of India. And I would respectfully submit that it is difficult for any man to assess a just compensation for them. Were they going under the personal rule of His Highness the Maháraja, who is a humane and enlightened Prince, he would take good care that they should not suffer. But I need not dilate on the general character of the officials to whom the details of administration must needs be confided in Kashmír, or speculate on how much, or how little, tyranny might be practised by any given Kardár for the time being. It is possible that for some years the people would lose nothing, and would require no compensation. In other years they might lose all,—the honor of their wives and daughters,—their personal liberty, their cattle and their crops; and no compensation would be enough for such events.

3. In short, I feel the transaction so delicate a one that I venture to ask, before communicating the orders of Government, what are the principles on which I am to assess compensation; what contingencies are to be considered and what to be disregarded, and at what rate any such contingencies as may be considered, should be valued. See sections 24 and 25 Act X, 1870.

4. I would further suggest that, if any such affairs have to be conducted, that Mr. Burney, who did the survey and wrote the report on which we are acting, might be placed on special duty for a few days to carry through the arrangements to a close.

Copy of a letter, No. 619, dated 9th April 1878.

From—Lepel Griffin, Esquire, Offg. Secretary to Government, Punjab,

To—H. E. Perkins, Esquire, Commissioner and Superintendent, Amritsar Division.

In reply to your letter No. 798 of 14th March, on the subject of the demarcation of the boundary between Kashmír and the British Government in the Gurdáspur district, I am directed to state that the Lieutenant-Governor thinks that it would be convenient, as suggested by you, that Mr. Burney, when he has furnished the report and made the preliminary investigation, should himself carry out the instructions of the Government of India, and he will accordingly be addressed and requested to give effect to the orders of His Excellency the Viceroy by laying down the boundaries in the manner noted in the Government of India letter of the 16th February last. Mr. Burney can, at the same time, report whether any compensation will be necessary with reference to the 3rd para. of that letter.

To—The Maháraja of Kashmír.

After compliments. It will be within the recollection of your Highness that in December 1876 the question of the Kashmír and British boundary on the Rávi near Mádhopur was discussed and arrangements were made for the final settlement of this long pending case. Mr. R. Burney, then Deputy Commissioner of Gurdáspur, with two officials appointed by your Highness, was directed at once to make out the boundary on the principles and in the manner described in the Resolution of the Government of India in the Foreign Department, No. 3034 P, dated 8th December 1876. Mr. Burney proceeded to carry out these instructions and submitted his report on 20th March 1877. He proposed that two-thirds of the culturable and grazing land immediately in front of the 3 villages of Bani Lodi, Jhandpur, and Basrúp should be given up to your Highness, and that the boundary line for the future should run at a distance of 200 yards only, instead of 612 yards, from the permanent left bank in front of these 3 villages.

By this suggestion nearly 600 acres of land and a revenue now estimated at Rs. 281 could have been transferred to Kashmír jurisdiction. It appeared, however, that these terms were more favorable to your Highness' Government than the terms of the Government of India Resolution of 8th December 1876 allowed, inasmuch as the suggested settlement did not make the centre of the river bed

the line of demarcation and as it proposed to transfer to Kashmir lands of which Your Highness was not in possession. His Excellency the Viceroy, however, having considered all the circumstances of the case, and being desirous of dealing liberally with Your Highness, has decided to approve Mr. Burney's settlement, subject to the following modification, and provided that it be understood that the matter is hereby finally settled. Instead of making over to the Kashmír Government ⅔rds of the Bani Lodi, Jhandpur, and Basrup lands, the British Government will, as a matter of grace and favor, cede its undoubted rights of sovereignty over half the lands in question. But the cession of the sovereign rights of Government does not include the cession of the proprietory rights of the zamíndárs, which must be inviolably maintained.

Mr. Burney has now been directed to give effect to the Government of India orders recently received, bearing date of 16th of last February, the substance of which has been above communicated. It is accordingly requested that, in order to assist Mr. Burney laying down the boundary as now required, an experienced officer of rank may be deputed by Your Highness and empowered to dispose of the question. This Officer should arrange to meet Mr. Burney accordingly at an early date, which can be fixed by your Highness' Government in communication with the latter.

No. 621, dated Lahore 9th April 1878.

Copy of the foregoing forwarded to the Secretary to the Financial Commissioner, Punjab, for information.

Copy of a letter, No. 81, dated 18th December 1878.

From—The Superintendent of Chamba.

To—The Commissioner and Superintendent, Amritsar Division.

With reference to your No. 2827, dated 23rd August, and previous correspondence, I have the honor to state that I met the officials of the Mahárája of Kashmír on 30th November at Basrup, and spent four days with them in measuring the land which was to be made over to Kashmír.

2. In accordance with the instructions of Government the boundary was declared to be an imaginary line drawn along the bed of the river at a distance of 306 yards from the permanent bank on the British side, and the measurements were taken to ascertain how much culturable land now belonging to the zamíndárs of Basrup, Bani Lodi, and Jhandpur was to be placed under the territorial jurisdiction of the Mahárája.

3. It was seen that since I was last on this spot the Rávi had inclined towards the British side bringing down with it sand and boulders which had ruined a great part of the culturable area that was now to be ceded. The result is that much of the land that has been so long-contested is now worthless.

* * * * * * * *

11. In conclusion, I would draw the attention of the District Officer at Gurdáspur to the following points, 1st :—The new line of demarcation is not to run at a distance of 306 yards from the pakka pillars that were erected in March 1877, but is to run at a distance of 306 yards from the permanent bank in front of the pakka pillars. The pillars were erected on the inner side of the high bank and at some little distance from it, lest they should be swept away by the river. The distance from each pillar to the permanent bank immediately in front of it has already been indicated in a paper which is in the office of the Deputy Commissioner of Gurdáspur.

In order to ascertain the position of the line of demarcation the distance from the pillars to the permanent bank in front of them must be added to the 306 yards.

12. Secondly, the wooden pillars which I have now erected in the bed of the river along the boundary line must not be considered permanent boundary marks. They were simply put up by me to assist in the measurements. They could easily be tampered with by either Kashmír or British zamíndárs, and they will probably be swept away by the next flood. It was impossible to make anything but temporary structures on this line, and if ever any question arises the boundary can always be ascertained by measurements from the pillars on the high bank.

Copy of a letter No. 136, dated 13th January 1879.

From—The Secretary to the Government of the Punjab,

To—The Commissioner and Superintendent, Amritsar Division.

In reply to your letter of the 24th December No. 4042, on the subject of the land in dispute, on the Rávi, between the British and Kashmír Governments, the demarcation of which Mr. R. Burney had been requested to make during the present cold weather, I am desired to convey the approval of the

Honorable the Lieutenant-Governor to the demarcation as laid down by that officer, and his proposals can be carried out accordingly and the necessary alterations made in the rent-roll of the Gurdáspur District.

2. The Lieutenant-Governor concurs with you in holding that the zamíndárs of Basrup are entitled to the sum of Rs. 6,500 or thereabouts which is in deposit on account of half the produce of the disputed lands of this village, and the money can be paid to them accordingly.

3. With regard to the subject of compensation, the Lieutenant-Governor considers that as the zamíndárs do not object to being transferred to Kashmír jurisdiction, and, as the assumption that they will be heavily assessed by the Mahárája's Government is a purely hypothetical one, and one on which no claim for damages or compensation can reasonably be based, the compensation proposed by Mr. Burney should not be paid to the villagers. Were the assumption to be correct that the zamíndárs would be oppressed and heavily taxed under the Mahárája's Government, it would be a reason for not placing the lands under his jurisdiction, and this argument cannot consequently be advanced.

Punjab Government Endorsement No. 137, dated 13th January 1879.

COPY forwarded to the Secretary to the Financial Commissioner, Punjab.

PART F.—REGULATION OF BOUNDARIES OF DISTRICTS AND TAHSILS IN THE PUNJAB, SEPARATED BY A RIVER, BY THE RULE THAT THEIR BOUNDARIES SHALL AGREE WITH THE COMMON BOUNDARIES FOR THE TIME BEING OF THE RIVER VILLAGES.

[No. 1]

No. 806, dated Lahore, 14th November 1888.

From—T. GORDON WALKER, Esquire, Senior Secretary to Financial Commissioner, Punjab,

To—The Junior Secretary to Government, Punjab.

IN paragraph 6 of the remarks made by His Honor the Lieutenant-Governor in reviewing the Revenue Administration of the Punjab for the year 1886-87, two questions connected with the action of the Punjab rivers were discussed,—(1) that of boundaries of ownership in lands affected by them ; and (2) that of boundaries of districts : and the Financial Commissioner was invited to express his views on both matters. With this office general letter No. 916, dated 16th February 1888, addressed to Commissioners, a copy of which is herewith enclosed, an extract from the passage in the review referred to above, together with certain other papers on the subject of the boundaries of districts which are separated by a river, were circulated, and the opinions of Commissioners, Deputy Commissioners and Settlement Officers were asked for regarding the method of determining such boundaries proposed by Colonel Wace in 1882, and explained in the copies of correspondence accompanying the letter.

2. The replies to that reference have now been received and, as noted in the margin, are submitted for the information of Government. The Financial Commissioner observes that there is a strong concurrence of opinion in favour of the proposal made in 1882; and not only so, but the rule suggested has been practically in force for a long time on such large rivers as the Jhelum and the Indus, and no particular inconvenience is caused by it. Cases would no doubt occasionally occur in which, owing to large changes in the course of a river, it might be convenient to transfer an alluvial village from the district to which it had belonged to date to the district to whose bank it had been transferred. But to this, on sufficient grounds of convenience being shown, no objection would be raised. Such cases are very rarely reported from the districts bordering on the Indus and Jhelum.

Commissioner, Delhi's No. 336, dated 8th May 1888, and enclosures.
Commissioner, Jullundur's No. 2753, dated 18th September 1888, and enclosures.
Commissioner, Lahore's No. 707, dated 7th September 1888, and enclosures.
Commissioner, Ráwalpindi's No. 266, dated 22nd May 1888, and enclosures.
Commissioner, Deraját's No. 560, dated 9th May 1888, and enclosures.
Commissioner, Peshawar's No. 235, dated 12th June 1888, and enclosures.

3. If the Government is willing to adopt the proposed practice, it can be brought gradually into operation by the submission of draft Notifications for each district with reference to the provisions of Section 5 of the Land Revenue Act. The practice would not affect inter-provincial boundaries nor boundaries between British and Native States in the case in which those boundaries are now governed by the deep streams of rivers.

4. I am to add that while Colonel Wace is glad to see this matter separately disposed of, he thinks that the cognate question of ownership boundaries on the Punjab rivers is one that demands early attention. The deep-stream rule in its application to the limits of properties is productive of much confusion, and may be properly described as barbarous and unjust, especially in respect of its not unfrequent extension to mauzás newly exposed to diluvial action after perhaps many years of complete exemption from such injury.

General letter No. 916, dated Lahore, 16th February 1888.

From—R. E. YOUNGHUSBAND, Esquire, Offg. Senior Secretary to Financial Commissioner, Punjab,

To—All Commissioners in the Punjab.

I AM directed to invite your attention to the papers marginally noted (which are reprinted below for the sake of convenience) on the subject of the boundaries of districts which are separated by a river, and to ask you to favour the Financial Commissioner with your opinion and that of the Deputy Commissioners and Settlement Officers in your Division on the method of determining such boundaries therein pro-

The Hon'ble Colonel E. G. Wace.
Boundaries of districts which are separated by a river.
Settlement Commissioner's No. 167C., dated 20th April 1882. } Printed in No. 35 of the Selections from the Records of the Financial Commissioner's Office.
Paragraphs 4, 5 and 6 of this office No. 1471, dated 20th December 1883. }
Extract from paragraph 6 of the Punjab Government Review of the Revenue Report for 1886-87.

posed. The present reference deals only with the determination of boundaries for revenue purposes. The jurisdiction of Courts, whether Civil, Criminal or Revenue, and the question of proprietary rights in land subject to the action of rivers are separate matters, which should not be discussed in replying to this reference.

No. 167C., dated 20th April 1882.

From—Major E. G. WACE, Settlement Commissioner, Punjab,

To—The Settlement Secretary to Financial Commissioner, Punjab.

I HAVE the honor to reply to your No. 2173, dated 30th March 1881, on the subject of the district boundaries on the river Sutlej between the districts of the Jullundur and Umballa Divisions. The correspondence noted in the margin is submitted herewith, and I further solicit a reference to the correspondence on the subject of the river boundary between the Lahore and Ferozepore districts, printed in Selections from the records of the Financial Commissioner's Office No. 5 of 1869, and to the Circular of the Board of Revenue, North-Western Provinces, No. III, dated 21st October 1880.

Settlement Officer, Hoshiárpur's No. 288, dated 23rd October 1880, and No. 333, dated 17th January 1881, and endorsement by Settlement Commissioner, No. 110, dated 8th February 1881.
Settlement Officer, Jullundur's No. 235, dated 18th May 1881.
" " Ludhiána's No. 158, dated 8th September 1881, and No. 235, dated 19th November 1881.
Settlement Officer, Hoshiárpur's No. 14, dated 11th April 1882.

2. The custom which in the great majority of cases decides disputes concerning the ownership of alluvial lands in the bed of the Sutlej as between villages on the opposite banks is that known as the deep-stream rule. And this rule has consequently been accepted as the rule for deciding the district boundaries.

3. The difficulties out of which this correspondence has arisen seem to me to be due to the circumstance that the rule has been laid down in too absolute a form. All the officers consulted report that in respect of rights of ownership the deep-stream rule, though truly described as the prevailing custom, is not of invariable application.

4. Mr. Kensington's report shows that as between the villages of the Garhshankar tahsíl and those of the Rupar tahsíl on the banks of the Sutlej, the deep-stream rule is not followed as a general custom, and that most of the villages have fixed boundaries. This change (if it be a change from what was before customary, of which, however, I am not certain) has been brought about by a gradual but extensive change in the position of the main stream and is the outcome of the disputes which consequently arose.

5. From what I observed while on tour in the Ludhiána district and from cases recently before me, I am inclined to think that if the Settlement Officers of Jullundur and Ludhiána could have examined the circumstances of their own Sutlej villages as closely as Mr. Kensington was able to do, they would have found evidence of similar changes. There is an increasing tendency to assert that land has been changed from one side of the stream to another by avulsion; and inasmuch as our settlement papers now make the proof of such an assertion and the identification of the land much easier than it was at the commencement of our rule, there is an increasing willingness on the part of our Courts to listen to a claim of this nature.

6. I came across one case near Ludhiána in which a village having gained a great deal of land by the receding of the main stream, and the village on the opposite bank having been completely destroyed, the Ludhiána village declined to take any more land and allowed the destroyed village to establish itself on the Ludhiána bank.

7. To whatever extent the operation of the deep-stream rule in defining district boundaries involves the transferring of villages and their inhabitants from one jurisdiction to the other, it is unquestionably a source of serious inconvenience equally to the administration and to the people concerned. The transfer of records from one district office to another causes unnecessary and undesirable risk of valuable records. The land revenue settlement stands in spite of the transfer, though this is very likely overlooked. New police and chaukidári arrangements are necessitated. The relations, domestic, social and mercantile, of the people transferred with their old side of the river stand unaltered; and they are very really inconvenienced by being made over to new tahsíls and thánás.

8. Then, again, in all these cases in which a village having part of its land cut off by the main stream succeeds in maintaining its right to the part cut off under the existing application of the deep-stream rule as the district boundary, this part is created a new and separate estate. And this is a purely gratuitous and unnecessary complication of our records.

9. I believe that the most convenient solution of these difficulties is to define district boundaries on the Sutlej river in the same manner as they are defined when they do not follow any river. For example, take the case of the boundary between the Jullundur and Hoshiárpur districts. It is defined by drawing up a list of the border villages of each district, and by saying that the boundary which divides the two districts is the same as that which

divides these border estates. I do not mean that any Notification can be referred to in which the boundary is so described; but, as a matter of fact, that is the principle on which the boundary was laid out by which it was surveyed, and with reference to which any dispute relating to jurisdiction would be decided.

10. I do not see that any difficulty or inconvenience would arise if the boundaries between districts lying on each side of the Sutlej river were similarly defined. I believe that the boundary between the Dera Gházi Khan and Muzaffargarh districts and between Muzaffargarh and Mooltan stands on this basis, as also does the boundary between the Jhelum and Shahpur districts on the River Jhelum. In all these instances each alluvial village has its fixed boundaries, and it is known to belong either to the one district or to the other. Similarly, in the Bannu and Dera Ismail Khan districts, the opposite banks of the Indus river belong to different tahsíl jurisdictions; the Indus alluvial villages have fixed boundaries, and each village is included either in the one tahsíl or in the other. I never heard it alleged that any administrative inconvenience is caused by these arrangements.

11. Under the solution thus suggested, so far as the deep-stream rule is really followed as a rule of ownership limiting the rights of the villages opposite to each other, it would still, in fact, remain the district boundary. But in so far now or hereafter as this rule of ownership may not be observed, there would be no conflict between the rule of ownership and the rule deciding the boundaries of jurisdictions.

12. To reduce the matter to a plain form, all that is required by my suggestion is a Notification under Act VI of 1867, declaring that the boundary dividing districts A and B on the river Sutlej is the boundary of ownership which divides the following villages:—

Border villages of district A.		Border villages of district B.	
Tahsíl.	Name of village.	Name of village.	Tahsíl.

Paragraphs 4, 5 and 6 of a letter No. 1417, dated 20th December 1883, from F. C. Channing, Esquire, Senior Secretary to Financial Commissioner, Punjab, to the Junior Secretary to Government, Punjab.

Para. 4. Government Notification No. 344 of 6th March 1869* declared the deep stream of the Sutlej the boundary between adjoining districts along the whole course of that river. When this Notification issued the jurisdiction over the Umballa villages on the Hoshiárpur side of the deep stream ought to have been transferred to the latter district; but the local officers appear to have taken no notice of the Notification, and the jurisdiction has remained with Umballa. Not only so, but from the reports lately received it seems that in other cases between Umballa and Hoshiárpur, and probably also between Ludhiána and the opposite districts of Hoshiárpur and Jullundur, parts of estates on one bank owned by zamíndárs residing on the opposite bank have remained in the jurisdiction of the district in which the village site is situated.

5. Mr. Lyall's attention was called to the subject by an entry in the Commissioner of Settlement and Agriculture's index of correspondence. He requested Major Wace to report on the subject, and I am now directed to submit in original his reply, No. 167 C., of 20th April 1882, with its enclosures. Major Wace, it will be seen, proposes to cancel the Notification of March 1869, and in place of it to issue a Notification defining the boundary between the adjacent districts as the boundary of ownership which divides the villages named in a schedule which would form part of the Notification.

6. Mr. Lyall, before whom this letter was laid, held that it was now necessary either to insist upon the principle of the Notification being carried out or to modify it. The present he considered to be a favourable time for action, as Hoshiárpur, Jullundur, Ludhiána and Umballa are all under settlement. He was in favour of the solution proposed by the Settlement Commissioner, and would apply it to the whole course of the Sutlej above its junction with the Beás, *i. e.*, where it flows between the Hoshiárpur and Jullundur districts on one side, and the Umballa, Ludhiána and Ferozepore districts on the other. He would leave Notification No. 197 of February 6th, 1869, which refers to the Lahore and Ferozepore districts, to be reconsidered, if necessary, when the Ferozepore Settlement is taken in hand. The lists of villages on both sides required by the Notification proposed by the Settlement Commissioner would be drawn up by the Settlement Officers and Deputy Commissioners of the districts concerned. These lists, Mr. Lyall thought, should be drawn up in the first place according to existing practice as to jurisdiction, but on the lists transfers should be proposed when transfers appear desirable, according to the principles of the Settlement Commissioner's proposal. For example, if a village estate has been divided into two parts by the river, and in practice the jurisdiction, Civil, Revenue and Criminal, has also been divided between the two districts by the deep-stream rule, each part becoming in fact as far as our records are concerned a separate mauza, then proposals might be made on the list to transfer the jurisdiction of the smaller part to the district in which the larger part, or that containing the village site, is situated. On the other hand, if the jurisdiction of the whole estate has

* The correspondence which led to this Notification will be found in a printed form in Selections from the Records of the Financial Commissioner's Office No. XXIV.—*See* Supplement to *Punjab Record*, March 1869.

remained with the district to which it originally belonged, but the larger part or that part containing the village site is now situated on the other side of the deep stream, and seems likely to remain there, then a transfer of the whole estate to the district across the deep stream might be proposed, if no special reasons to the contrary (such as those which were held to be sufficient in the case of the Umballa village referred to in the correspondence of 1864) exist.

Extract from paragraph 6 of the Punjab Government Review of the Revenue Report for 1886-87.

Another closely connected topic is the question of determining district boundaries for revenue purposes other than those connected with the jurisdiction of Revenue Courts. With reference to the Financial Commissioner's letter No. 1471, dated 20th December 1883, regarding the boundary between the Hoshiárpur and Jullundur districts on the one side, and the Umballa and Ludhiána districts on the other side of the River Sutlej, Mr. Lyall is prepared to consider whether opportunities should not be taken gradually to fix the limits of districts for general revenue purposes once for all. On this matter also the Financial Commissioner is invited to express his views. The questions of determining district boundaries for the purposes of (1) criminal administration, and (2) the Indian Registration Act, are distinct.

No. 336, dated Delhi, 8th May 1888.

From—Colonel L. J. H. Grey, c. s. i., Commissioner and Superintendent, Delhi Division,

To—The Secretary to Financial Commissioner, Punjab.

With reference to your general letter No. 916 of the 16th February last, I have the honor to submit a copy of the resolution of the Conference of Deputy Commissioners and Settlement Officers of the Division held at Umballa in March last. The subject was discussed at the Conference, and the resolution expresses the unanimous opinion of all the officers who took part in the discussion.

DIVISIONAL CONFERENCE, 1888.

Subject XXIV.

Boundaries of Districts which are separated by a river.

The following resolution was proposed by Colonel Grey and carried *nem. con*:—

"That the Conference agree to the suggestion embodied in Settlement Commissioner's letter No. 167 C. of 20th April 1882, to the Settlement Secretary to the Financial Commissioner, Punjab, Section 12."

No. 2753, dated Jullundur, 18th September 1888.

From—W. M. Young, Esquire, Commissioner and Superintendent, Jullundur Division,

To—The Senior Secretary to Financial Commissioner, Punjab.

With reference to your general letter No. 916, dated 16th February 1888, I have the honor to forward the correspondence marginally noted regarding the adoption of fixed boundaries for revenue purposes, in lieu of the deep-stream rule in the case of districts separated by a river, and to communicate the following remarks.

Deputy Commissioner, Jullundur's No. 164, dated 6th June 1888.
Deputy Commissioner, Hoshiárpur's No. 138, dated 21st March 1888.
Deputy Commissioner, Kángra's No. 395, dated 30th March 1888.
Deputy Commissioner, Ludhiána's No. 154, dated 7th April 1888.
Deputy Commissioner, Ferozepore's No. 159, dated 12th April 1888.
Settlement Officer, Ferozepore's No. 108, dated 2nd April 1888.
Commissioner's Circular No. $\frac{107}{1858}$, dated 22nd June 1888.
Deputy Commissioner, Jullundur's No. 225, dated 27th August 1888.
Deputy Commissioner, Hoshiárpur's No. 344, dated 13th August 1888.
Deputy Commissioner, Ludhiána's No. 311, dated 14th July 1888.
Deputy Commissioner, Ferozepore's No. 375, dated 30th August 1888.

2. The proposal made in this correspondence is to abandon the deep-stream rule laid down as regards the Sutlej river in Punjab Government Notifications No. 197, dated 6th February 1879, and No. 344, dated 6th March 1869, and to define district boundaries on that river in the same manner as they are defined when they do not follow any river. It is stated that the jurisdiction of Courts, whether Civil, Criminal or Revenue, are separate matters which should not be discussed in replying to the reference, but I venture to think that the jurisdiction of the Revenue Courts under Act XVI of 1887, Section 77, will depend on the limits of tahsils and districts, as fixed under Section 5 of Act XVII of 1887, and that this consideration affects the question.

3. The objection which then existed to the present proposal was thus forcibly stated by Mr. J. W. Smyth in his letter as Deputy Commissioner of Lahore, No. 544, dated 17th December 1868, printed with the Selection from the Records of the Financial Commissioner,

No. XXIV of 1869 :—"If the district boundary is to follow the boundaries of the villages, and if these boundaries are continually shifting, there is the greatest uncertainly as to jurisdiction. Before determining the district boundary it becomes necessary, to determine the private rights in the lands, to see what villages they belong to; and yet how can those rights be determined until it is known what authorities have jurisdiction ? In other words, before the district boundary can be fixed, it is necessary to determine the village boundaries, and before the village boundaries can be authoritatively fixed in disputed cases, it is necessary to know in what jurisdiction, that is, in what district, the land is situated. This is the dilemma in which the authorities of the two districts are landed in cases where lands are claimed by different villages situated on different sides of the stream."

4. On the other hand, the objections to the deep-stream boundary, which have been detailed in the present correspondence, were stated in paragraph 7 of the letter above quoted. To these may be added the inconvenience described in Mr. Dane's letter No. 344, dated 13th August 1888, paragraph 9. The Financial Commissioner in 1869 (Sir Robert Egerton) admitted that Mr. Smyth's objections had weight, but considered that they were counterbalanced by the more serious objection regarding uncertainty of jurisdiction, and it was apparently on this ground that he recommended, and the Government sanctioned, the maintenance of the deep stream as the district boundary.

5. As pointed out by Mr. Dane, the objection founded on the question of jurisdiction has been, to some extent, met by the enactment of Section 6, Act VII of 1888. I am not aware to what extent this provision was introduced owing to riverain disputes, but I think it probable that these cases afforded one of the reasons for its enactment.

6. With the exception of Colonel Birch, who does not enter into the question beyond stating that the deep-stream rule has worked well, and no complaint has been made against it, and Colonel Harcourt, who has misunderstood the question, the officers who have been consulted are in favour of the proposals made by Colonel Wace as Settlement Commissioner in 1882, and viewed purely as a revenue question, there seems to be every reason in favour of their adoption. The only argument which now exists for maintaining the deep stream as the boundary for fiscal purposes is that described by Mr. Rennie, *viz.*, the inconvenience of crossing the river at certain times of the year, and this, if it were found to be serious, might be obviated in the way suggested by him.

7. I abstain from further remarks in regard to the cognate question, *viz*, the delimitation of proprietary right in river beds, and the jurisdiction of the Courts, because the Financial Commissioners have desired that they should not be discussed in this reference ; but I venture to think that no change should be made until these matters also have been thoroughly considered with reference to the proposals to which this correspondence refers.

No. 164, dated 6th June 1888.

From—Colonel A. F. P. Harcourt, Deputy Commissioner, Jullundur,

To—The Commissioner and Superintendent, Jullundur Division.

In reply to his Circular docket No. $\frac{67}{881}$, dated 16th March last, has the honor to report that in undersigned's opinion the boundary of alluvial villages on the Sutlej river as determined by the deep-stream rules should not be followed in respect of rights of ownership, but that they should be defined by the boundary which divides the districts in which they lie.

No 138, dated 21st March 1888.

From—J. G. M. Rennie, Esquire, Deputy Commissioner, Hoshiárpur,

To—The Commissioner and Superintendent, Jullundur Division.

In reference to your Circular No. $\frac{67}{881}$, dated 16th instant, I am inclined to agree to the proposals laid down in paragraphs 9, 10. 11, 12, of Major Wace's letter No. 167 C., dated 20th April 1882, as to the adoption of fixed boundaries of districts separated by a river.

The principal objection to be urged against it of course is that during certain periods of the year when these rivers are in flood there might be difficulties in the case of the villages separated from the main body of the district by the river, but this would only occur during a comparatively short portion of the year, and during the rest, owing to the numerous ferries, communication is quite easy. As a matter of fact, the principal point to be considered from the revenue point of view is whether any injury would accrue to Government owing to want of facilities in paying in the revenue, but that, it appears, might be obviated by allowing the separate portion to pay in its revenue to the nearest tahsíl on its own side.

No. 395, dated 30th March 1888.

From—E. O'Brien, Esquire, Deputy Commissioner, Kángra,

To - The Commissioner and Superintendent, Jullundur Division

In reply to your Circular No. $\frac{67}{881}$, dated 16th March 1888, forwarding for an expression of opinion printed correspondence on the mode of determining the boundaries of districts

which are separated by a river for revenue purposes, I have the honor to state that I have always thought that the mode described in paragraph 9 of the letter of the Settlement Commissioner, No. 167C., is the proper mode of fixing the boundaries of villages confronting each other on opposite sides of a river, but my experience of the matter is not sufficiently recent to enable me to add any argument in favour of my view to those expressed in Major Wace's letter.

No. 154, dated 7th April 1888.

From—Lieutenant-Colonel W. J. PARKER, Deputy Commissioner, Ludhiána,
To—The Commissioner and Superintendent, Jullundur Division.

WITH reference to your No. $\frac{87}{881}$, dated 16th March last, forwarding for an expression of opinion Financial Commissioner's general letter No. 916, I have the honor to state as follows. I think there can be no question as to the great advantage of having the boundaries of districts defined once for all on the principle set forth in Settlement Commissioner's No. 167 C., dated 20th April 1882, paragraphs 9 and 12, and in Secretary to Financial Commissioner's No. 1471, dated 20th December 1883, paragraph 6.

There is no doubt that such a course would greatly simplify the work of the Revenue Officers in districts bordered by rivers, and would also considerably diminish litigation of a very troublesome kind which occurs between villages which have suffered by river action owing to discrepancies occurring in measurements made by officials of two different tahsíls. It would also be a boon to the inhabitants of river villages as preventing the transfer of jurisdiction in cases where whole villages changed from one side of the river to the other.

I may add that the Settlement Commissioner is right in saying (paragraph 4) that the deep-stream rule is not universally observed in this district; for out of 28 villages in the Samrála tahsíl liable to river action the deep-stream rule is only adopted by 9, the remaining 19 having fixed boundaries.

No. 159, dated 12th April 1888.

From—Colonel F. M. BIRCH, Deputy Commissioner, Ferozepore,
To—The Commissioner and Superintendent, Jullundur Division.

WITH reference to your Circular No. $\frac{87}{881}$, dated 16th ultimo, forwarding copy of Senior Secretary to Financial Commissioner, Punjab's No. 916, dated 16th February 1888, on the subject of the boundaries of districts which are separated by a river, I have the honor to state that in my opinion the deep-stream rule is the best in determining the boundaries of the villages affected by the action of the river. It appears to have worked well in this district, and no complaint whatever has been made against it.

No. 108, dated Ferozepore, 2nd April 1888.

From—E. B. FRANCIS, Esquire, Settlement Officer, Ferozepore,
To—The Commissioner and Superintendent, Jullundur Division.

IN reply to your endorsement No. $\frac{87}{881}$, of 16th ultimo, I have the honor to state that the present arrangements with regard to the transfer of parts of villages by river action to and from this district and the districts of Lahore and Jullundur do not, I think, cause any practical inconvenience. But, on the other hand, there would be no objection to a rule that avulsion islands shall not change their jurisdiction, and that in fact the jurisdiction shall follow the ownership.

2. A system approaching that of fixed boundaries could probably have been gradually introduced between these districts without raising any objection had it not been for the recent change in the law which again transfers the decision of boundary disputes to the Civil Courts.

3. I will ascertain and report the extent of the changes which would be caused by the principle of transferring the smaller part of each divided village to the district in which the larger part is situated. Such transfers should perhaps hardly be made unless the division took place later than the last settlement of either of the districts. Exchanges with Jullundur would involve the conversion of all the revenue papers into terms of a different unit of land measure.

Circular No. 107—1858, dated 22nd June 1888.

From—W. M. YOUNG, Esquire, Commissioner and Superintendent, Jullundur Division,
To—The Deputy Commissioner of (1) Jullundur, (2) Hoshiárpur, (3) Ludhiána, (4) Ferozepore.

WITH reference to your (1) No. 164, dated 6th instant, (2) No. 138, dated 21st March last, (3) No. 154, dated 7th April last, (4) No. 159, dated 12th April last, regarding the adoption for revenue purposes of the boundaries of villages instead of the deep stream

as the boundary between districts on either bank of the Sutlej, I have the honor to request the favour of your furnishing me with the following information (*to Ferozepore only*) as regards the course of the Sutlej up to its junction with the Beás:—

(1). What is the total number of villages in your district liable to river action from the Sutlej in which—

(*a*) the deep-stream rule,

(*b*) the fixed boundary system,

forms the criterion for deciding disputes with the opposite villages regarding ownership of alluvial lands ?

(2). Has the bed of the river been measured and included in the boundaries of the villages in which such cases are decided according to the fixed boundary system ? If not, what is the meaning of the term ?

(3). How many cases of disputed boundary in river villages have been filed in the revenue offices during the past three years, and how many cases of disputed ownership of river lands have been filed during the same period in the Civil Courts ?

(4). If the system proposed in the enclosures to this office Circular No. $\frac{67}{881}$, dated 16th March 1888, is adopted, how will the difficulty described in the letter marginally noted be overcome ?

Paragraph 5 of No. 544, dated 17th December 1868, from J. W. Smyth, Esquire, Deputy Commissioner, Lahore, to Officiating Commissioner and Superintendent, Lahore Division, printed with Selection No. XXIV, from Records of Financial Commissioners, Punjab Record for 1869.

2. I shall be obliged by an early reply.

No. 225, dated 27th August 1888.

From—Colonel ALFRED HARCOURT, Deputy Commissioner, Jullundur,

To—The Commissioner and Superintendent, Jullundur Division.

I HAVE the honor to acknowledge the receipt of your Circular No. $\frac{107}{1858}$, dated 22nd June last, requesting information on certain points connected with the boundaries of alluvial villages on the Sutlej river in the Jullundur district, and in reply beg to note as follows:—

1. The total number of villages in this district liable to river action from the Sutlej is 125, *viz.*:—

(*a*) In which the deep-stream rule forms the criterion for deciding disputes with the opposite villages regarding ownership of alluvial lands ...	95
(*b*) In which the fixed boundary system forms the criterion for deciding disputes with the opposite villages regarding ownership of alluvial lands ...	30

2. The bed of the river has not been measured and included in the boundaries of the villages in which cases of ownership are decided according to the fixed boundary system. The meaning of the term, as followed in this district, is that if any land of a village where the fixed boundary system prevails is swept away from one side of the river and thrown up on the opposite side by avulsion, the right of its ownership remains unaltered, *i.e.*, the original proprietors of the village retain its possession.

3. There have been five cases of disputed boundary in river villages filed in the revenue offices during the past three years, and six cases of disputed ownership of river lands filed in the Civil Courts during the same period.

4. In reply to paragraph 4 of your letter under reference, I beg to intimate that the enclosure of your Circular No. $\frac{67}{881}$, dated 16th March 1888, deals only with the determination of boundaries for *revenue purposes*; whereas paragraph 5 of letter No. 544, dated 17th December 1868, from Deputy Commissioner, Lahore, to Commissioner, Lahore Division, quoted therein, treats of *claims to river land*. There will therefore be no difficulty to overcome if the system proposed in the enclosure of your Circular noted above is adopted for revenue purposes only.

No. 344, dated Hoshiárpur, 13th August 1888.

From—R. M. DANE, Esquire, Deputy Commissioner, Hoshiárpur,

To—The Commissioner and Superintendent, Jullundur Division.

I HAVE now the honor to reply to your Circular No. 107—1858, dated 22nd June 1888, on the subject of the principle to be adopted in the determination for revenue purposes of the boundaries of districts which are separated by a river.

2. Without personally visiting the locality, I hesitate to make any categorical statement regarding the points noticed in paragraphs 1 and 2 of your Circular, but I submit herewith reports in vernacular from the Tahsíldárs of Una and Garhshankar, which entirely bear out the statement made by Colonel Wace as Settlement Commissioner in paragraph 3 of his letter to the Settlement Secretary to the Financial Commissioner, No. 167 C., dated 27th April 1882, to the effect that in respect of rights of ownership af alluvial lands on the Sutlej the deep-stream rule, though truly described as the prevailing custom, is not of invariable application.

3. As regards the number of cases of disputed boundary filed in the Revenue Offices or Civil Courts during the last three years, Mr. Kensington, the Settlement Officer, Umballa, was, as I understand, engaged during a part of the past cold weather in demarcating and deciding the boundaries of some of the Hoshiárpur and Umballa villages, though no report of his proceedings has yet reached me. It also appears from the report of the Tahsíldár of Garhshankar that there are two cases of dispute between Hoshiárpur and Ludhiána villages now pending, but the disputes do not appear to have reached an acute phase. No suits between residents of different districts appear to have been filed in the Hoshiárpur Civil Courts during the past three years.

4. As illustrating the inconvenience caused by a hard-and-fast adoption of the deep-stream rule, I suggest a reference to the correspondence that took place from 1863 to 1865 between the officers of the Jullundur and Umballa Divisions regarding this question, copies of which must be in your office. The difficulty in the adoption of village boundaries as the district boundary described by Mr. J. W. Smyth as Deputy Commissioner of Lahore in paragraph 5 of his letter No. 544, dated 17th December 1868, to the Commissioner, Lahore, has been to a great extent met by the enactment of section 6 of Act VII of 1888, now Section 16A of the Code of Civil Procedure. Under this section, when there is any *boná fide* uncertainty as to jurisdiction over immoveable property, a suit may be entertained and disposed of by any Court within the limits of whose jurisdiction the land may appear to be situate.

5. The Financial Commissioners, however, in their Circular, expressly exclude discussion of the questions of proprietary right and jurisdiction of the Courts; and though I am personally of opinion that these questions ought not in the interests of the agriculturists concerned to be excluded from discussion, the orders of the Financial Commissioners do not appear to admit of any argument. It will also be observed that opinions are now invited, not merely as regards the boundaries of districts separated by the Sutlej, but as regards the boundaries of all districts separated by any river.

6. Personally I think that the deep stream of a river is a bad boundary for the reasons given in paragraphs 7 and 8 of Colonel Wace's letter of April 1882 above quoted and in paragraph 7 of Mr. Smyth's letter of December 1868 to the Commissioner, Lahore, and that the danger of a conflict of jurisdiction between Deputy Commissioners of adjoining districts in the event of any other district boundary being adopted is not so great as was thought by the Financial Commissioner in 1869.

7. The principle of defining district boundaries in accordance with the boundary of ownership in the riverain villages, which is favoured by Colonel Wace, is exactly the principle upon which the boundary between Hoshiárpur and Gurdáspur is regulated upon the Beás. The river was demarcated in 1862 or thereabouts, and the great majority of the villages on both sides of the river have fixed boundaries. Some few villages were dissatisfied and contested the demarcation, and obtained decrees in the Civil Courts affirming the deep stream of the river as the boundary of ownership. In the case of these villages therefore the deep stream is the district boundary, and in the case of the other villages the fixed limit of ownership is the boundary of the district.

8. It is of course obvious that it is sometimes very difficult to ascertain in a bed of a river the fixed limit of ownership, and land may occasionally be measured and assessed in one district which properly belongs to the village on the other bank in the adjoining district; but if the shajrahs of the villages in both districts are carefully drawn and brought into agreement with each other, it ought to be possible to ascertain at the time of the alluvion and diluvion measurements to which district the land really belongs. Even if land may have been wrongly included in the kistbandi of one district when it really belongs to the other, it is much easier to strike the land off the kistbandi than to transfer whole villages backwards and forwards from one district to another as will have to be frequently done if the deep-stream rule is to be maintained in its integrity.

9. As pointed out by Mr. Smyth in paragraph 8 of his letter of 1868, a river is a bad boundary either for a district or for a tahsíl, but the scheme which he there recommends for dealing with rivers does not appear to commend itself to Government. The subject requires very careful consideration, and the convenience of the agriculturists should, in my opinion, be considered as well as the convenience of Government. I have seen in Gurdáspur villages the land of which was divided by the Rávi at the time of the revised settlement, 1863—1868, and was consequently formed into two estates, one of which was measured with a chain of 60 inches to the karm as being in the Gurdáspur tahsíl and the other with a trans-Rávi chain of 66 inches as being in the Shakargarh tahsíl.

Now the land is all on one side of the river, and the zamíndárs have divided the whole of the alluvial land among themselves according to shares; but some of it is an estate in the Gurdáspur tahsíl, and some in Shakargarh. It is needless to expatiate on the inconvenience of the arrangement.

The deep-stream rule is, in fact, a relic of barbarism—a survival of the times when proprietary rights in land had no real existence,—and when the principle is applied to the tenures now existing it often leads to great injustice and hardship. In all cases where a custom has been established by decree of Court, or otherwise, nothing can now be done, but if the deep stream be abandoned as the district boundary, I think it probable that it will in the great majority of cases soon cease to be accepted as the limit of ownership.

No. 311, dated Ludhiána, 14th July 1888.

From—Lieutenant-Colonel W. J. Parker, Deputy Commissioner, Ludhiána,

To—The Commissioner and Superintendent, Jullundur Division.

In reply to your No. $\frac{107}{185}$, dated 22nd June last, I have the honor to state as follows.

There are in all 96 villages in this district subject to river action from the Sutlej. Of these, the deep-stream rule is observed in 53 and the fixed boundary system in 43 villages.

2. The bed of the river has not been measured, but in those villages in which the fixed boundary system is in force, the boundaries were measured at the first regular settlement up to the bank of the river as it then flowed, so that in some cases where the course of the river has changed, the present bed of the river was included in the boundaries then fixed, but where the river follows its original course the boundary is up to the water's edge.

3. There have been 15 cases of disputed boundary in river villages filed in the Revenue Offices during the past three years, and 7 cases of disputed ownership of river lands have been filed in the Civil Courts during the same period.

4. As regards the difficulty referred to in paragraph 4 of your letter, it is based on the assumption that village boundaries are constantly shifting, and the difficulty would be got over by having them definitely fixed by measurement and so made independent of the course of the river. I am led to believe that this is the case with regard to the villages in this district where the fixed boundary system is in force.

No. 375, dated Ferozepore, 30th August 1888.

From—Colonel F. M. Birch, Deputy Commissioner, Ferozepore,

To—The Commissioner and Superintendent, Jullundur Division.

With reference to your Circular letter No. $\frac{107}{1858}$, dated 22nd June 1888, calling for certain information regarding the deep-stream rule in this district as to the course of the Sutlej up to its junction with the Beás, I have the honor to reply *seriatim*.

1. (*a*). There are 67 villages in this district liable to river action in which the deep-stream rule forms the criterion for deciding disputes with the opposite villages regarding the ownership of alluvial lands.

(*b*). There are no villages in this district in which the fixed boundary system forms the above-mentioned criterion.

2. The accompanying copy of memorandum of the Settlement Officer, Ferozepore, contains a reply to your question No. 2.

3. During the past three years 19 cases of disputed boundary in the 67 river villages above noted have been filed in Revenue Offices, and no cases of disputed ownership of the river lands in question have been filed during the same period in the Civil Courts.

4. I am unable to express any opinion about the matter referred to in paragraph 4 of your letter, as the Selection XXIV from the Records of the Financial Commissioner for 1869 have not been received in this office.

Memorandum by E. B. Francis, Esquire, Settlement Officer, Ferozepore, dated 9th July 1888.

Deputy Commissioner's endorsement on Commissioner's Circular No. $\frac{107}{1858}$ of 22nd June 1888.

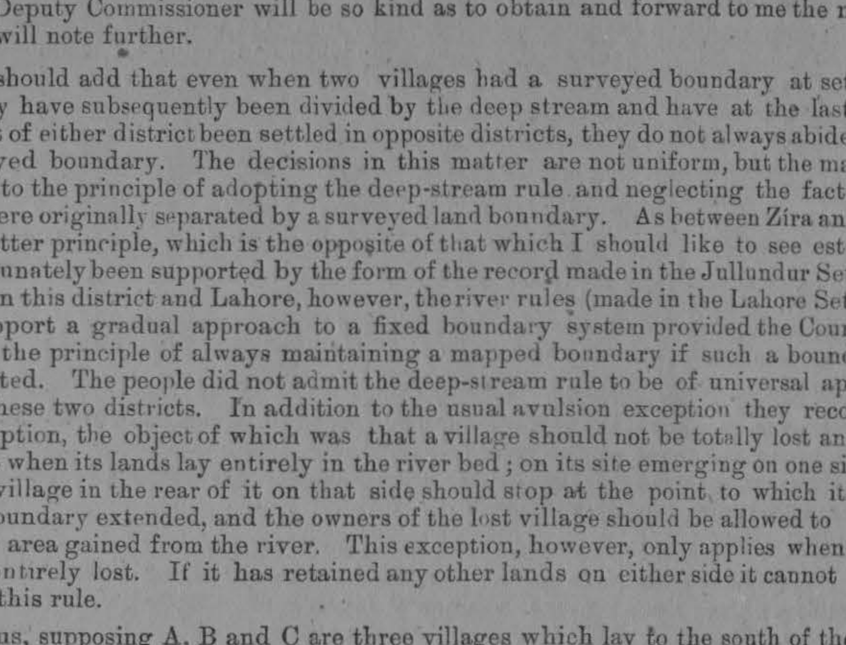
The fixed boundary system is unknown in that part of the district which is under settlement except as between villages which had at settlement a surveyed boundary between them. (In one case recently two villages which are divided by the deep stream agreed* to adopt a fixed boundary, but this case occurred above the Beás junction.)

* (On the Extra Assistant Settlement Officer's mediation as a special case).

Consequently the bed of the river has not been measured into the boundaries of any of our villages, the village and district boundary is the nearer edge of the deep stream. The question asked in Commissioner's paragraph 3 can be answered by the Record-keeper. I regret that, having been unable to obtain either from the Deputy Commissioner's Office or from the Financial Commissioner's Office at Simla the Selections from the Financial Commissioner's Records quoted in Commissioner's 4th paragraph, I am unable to answer the question there stated. There are no such Selections printed in the Punjab Record for 1869. If Deputy Commissioner will be so kind as to obtain and forward to me the necessary papers, I will note further.

I should add that even when two villages had a surveyed boundary at settlement, yet, if they have subsequently been divided by the deep stream and have at the last regular settlement of either district been settled in opposite districts, they do not always abide by their old surveyed boundary. The decisions in this matter are not uniform, but the majority of them lean to the principle of adopting the deep-stream rule and neglecting the fact that the villages were originally separated by a surveyed land boundary. As between Zíra and Jullundur this latter principle, which is the opposite of that which I should like to see established, has unfortunately been supported by the form of the record made in the Jullundur Settlement. As between this district and Lahore, however, the river rules (made in the Lahore Settlement) would support a gradual approach to a fixed boundary system provided the Courts would adhere to the principle of always maintaining a mapped boundary if such a boundary formerly existed. The people did not admit the deep-stream rule to be of universal application between these two districts. In addition to the usual avulsion exception they recorded another exception, the object of which was that a village should not be totally lost and blotted out except when its lands lay entirely in the river bed; on its site emerging on one side of the river the village in the rear of it on that side should stop at the point to which its former mapped boundary extended, and the owners of the lost village should be allowed to take the remaining area gained from the river. This exception, however, only applies when a village has been entirely lost. If it has retained any other lands on either side it cannot take the benefit of this rule.

Thus, supposing A, B and C are three villages which lay to the south of the river at the time of the last settlement of this district and were consequently separated by surveyed boundaries, and suppose



that the river after cutting back to *xy* again recedes to the north of A; then B and C will relay their boundary according to their maps, and if A has no land on the other side they will stop at the line *mn* and let A resume its old side beyond that. But if A succeeded by the avulsion rule in getting a footing on the other side of the river when the deep stream came south to *xy* and still retains land on that side, then B and C will usually prolong their boundary up to the bank of the stream.

No. 707, dated 7th September 1888.

From—C. M. Rivaz, Esquire, Officiating Commissioner and Superintendent, Lahore Division,

To—The Officiating Senior Secretary to Financial Commissioner, Punjab.

In reply to your general letter No. 916, dated the 16th February last, I have the honor to submit, for the information of the Financial Commissioner, the opinions furnished by the Deputy Commissioners and Settlement Officers in this Division (except Colonel Lang, Deputy Commissioner of Amritsar) as noted in the margin on the subject of the boundaries of districts which are separated by a river.

In Original.

Deputy Commissioner, Mooltan's No. 180, dated 27th March 1888.

Deputy Commissioner, Jhang's No. 117, dated 17th April 1888.

Deputy Commissioner, Montgomery's No. 334, dated 7th June 1888.

Deputy Commissioner, Lahore's No. 212, dated 8th May 1888.

Deputy Commissioner, Gurdáspur's No. 146, dated 2nd April 1888.

Settlement Officer, Lahore's No. 1, dated 27th April 1888.

Settlement Officer, Amritsar's No. 121, dated 2nd May 1888.

Settlement Officer, Gurdáspur's No. 186, dated 12th April 1888.

Five reminders were sent to Colonel Lang previous to the receipt of your No. 4808 of the 11th ultimo, a copy of which was also sent on to him with the intimation that the opinions of all the other Deputy Commissioners and Settlement Officers in the Division had been received, and that his reply only was awaited; but I regret that up to the present no reply has been received from him, and to avoid further delay I submit the opinions of the other officers in the Division.

2. All the Deputy Commissioners and Settlement Officers are of opinion that the deep-stream rule is open to many objections and that some other method of determining the boundaries of villages separated by a river is desirable, and they are all, with the exception of Messrs. Dane and Kennedy, also of opinion that the boundaries of border villages should be fixed, and that these boundaries should be considered the boundaries of the district as suggested by the Settlement Commissioner in paragraphs 11 and 12 of his letter No. 167 C., dated the 20th April 1882, to the address of the Settlement Secretary to the Financial Commissioner.

3. For the reasons stated in his letter. Mr. Kennedy thinks that each case should be dealt with on its own merits, but obviously some general rule on the subject is desirable.

Mr. Dane doubts whether the method suggested by the Settlement Commissioners would attain the desired end, and says "to take the case of the boundary between this district (Gurdáspur) and Hoshiárpur on the Beás, an attempt was made in about 1868 to lay down a fixed boundary for all the riverain villages which should be treated as the district boundary also. Some of the villages, however, refused to accept a fixed boundary, and others by judicial proceedings have succeeded in getting the fixed boundary set aside as the limit of ownership, and a somewhat general wish to return to the old deep-stream rule is evident all along the line." Mr. Grant would like to see the proposed method applied, not only to cases where the deep-stream rule is not at present in force in determining ownership, but "to the whole line, wherever the river was formerly regarded as the limit," as has been done in the case of the boundary between Amritsar and Kapurthala.

4. My own opinion is that, on the whole, the method proposed by Colonel Wace, namely, that the boundary for revenue purposes should follow the boundary of ownership in the case of riverain villages, is more convenient than having the deep stream as the district boundary absolutely.

The disadvantages of the proposed method are that, where the rule of ownership is other than the deep-stream, the patwáris and other revenue officials would be put to the inconvenience of their field work being partly on one side of the river and partly on the other; also, as noticed by Mr. Dane, the revenue boundary could not be fixed in cases where disputes arise as to the ownership of lands affected by the river between the villages on either bank until such disputes are settled. But the inconveniences caused both to the administration and the people affected by fixing the deep stream as the revenue boundary are, as stated in paragraphs 7 and 8 of Colonel Wace's letter of the 20th April 1882, far greater. The best solution of the question would be to fix the boundaries of all river villages once for all, both as regards the rights of ownership and for administrative purposes, irrespective of any future changes of the river, where the villages concerned can be brought to agree to this system. But where this is impracticable, I certainly think that the system of letting the revenue boundary follow the boundary of ownership as such latter boundary may, in accordance with the local custom, be altered by river action from time to time, is preferable to maintaining the deep stream as the invariable territorial boundary without regard to whether such rule governs the rights of private ownership.

No. 180, dated 27th March 1888.

From—Major J. B. Hutchinson, Deputy Commissioner, Mooltan,

To—The Officiating Commissioner and Superintendent, Lahore Division.

With reference to your Circular No. 55, dated 16th March 1888, forwarding papers regarding boundaries of districts which are separated by a river, I have the honor to point out that on the Rávi the Mooltan district extends to the north of the river, and on the Sutlej the Baháwalpur State lies to the south of the river; therefore the question in hand refers only to the Chenáb, which is the boundary between the Mooltan and Muzaffargarh districts.

2. On this river the custom has hitherto always been that for revenue purposes the deep stream is the boundary between the two districts. If a village has been transferred by the river from the Mooltan to the Muzaffargarh side, it is incorporated for revenue purposes into the Muzaffargarh district and *vice versâ*. This, as remarked by Colonel Wace, causes considerable confusion and trouble. I am of opinion that for revenue purposes a fixed boundary might with advantage be laid down on the plan described in paragraph 12.

No. 117, dated Jhang, 17th April 1888.

From—Baron J. Bentinck, Deputy Commissioner, Jhang,

To—The Officiating Commissioner and Superintendent, Lahore Division.

In reply to your Circular No. 55, dated 16th ultimo, forwarding copy of printed correspondence on the subject of the boundaries of districts which are separated by a

river, and asking for an expression of opinion on the method of determining such boundaries therein proposed for revenue purposes only, I am of opinion that there are several drawbacks in the deep-stream rule as pointed out in paragraphs 7 and 8 in his letter No. 167 C., dated 20th April 1882, by Major E. G. Wace, Settlement Commissioner, Punjab, to the Settlement Secretary to Financial Commissioner, Punjab, and especially in districts in which both sides of the river are in British territory, because in such cases it is comparatively immaterial in which district any case that may arise by the change of course of a river is decided without any conflict of jurisdiction.

The method pointed out by Major Wace in his paragraphs 9 and 12 seems to be a feasible one, and may be acted upon in future. The district boundaries on a river may conveniently be defined in the same manner as they are defined when they do not follow any river by drawing up a list of the border villages of each district, and by determining that the boundary which divides the two districts is the same as that which divides these border estates, and this can easily be done by the issue of a notification under Act VI of 1867, declaring that the boundary dividing districts A and B on a river is the boundary of ownership which divides the border villages.

No. 334, dated 7th June 1888.

From—T. J. KENNEDY, Esquire, Deputy Commissioner, Montgomery,

To—The Commissioner and Superintendent, Lahore Division.

IN reply to your Circular No. 55, dated 16th March 1888, asking my opinion as to the method of determining the revenue boundaries of districts which are separated by a river, I have the honor to state that the only river boundary in this district is constituted by the Sutlej, which divides this district from Baháwalpur and the Ferozepore district.

With regard to the boundary, I think the most convenient solution of the difficulty is that suggested by Colonel E. G. Wace in paragraph 9 of his letter No. 167 C., dated 20th April 1882, by drawing up a list of the border villages of each district, and by saying that the boundary which divides the two districts is the same as that which divides these border estates. My main reason for thinking this the best solution in this particular case is that the officials of Native States think it a point of honor not to yield a single acre of land belonging to the State, and have not that regard for the orderly and methodical despatch of public business which is insisted upon in British territory. In one particular case which is now pending before me connected with di-alluvion, the proceedings commenced some time ago; repeated postponements to permit of the attendance of the Baháwalpur officials were granted, and finally, when in March last the Baháwalpur officials and the Montgomery officials met and inquired into the dispute on the spot, no satisfactory arrangement was come to. Such procedure entails hardship upon agriculturists and is fatal to successful revenue administration, and it is more satisfactory to have fixed and not fluctuating boundaries between British territory and Native States. A general rule in other cases cannot, I think, be appropriately laid down. When a broad and rapid running river cuts off a portion of a patwári's circle, it would be most inconvenient for him to have to cross over to do the girdáwari, &c., in this isolated portion, especially if, as on the Jumna in the upper part of its course, ferries are few and separated by wide intervals, and a careful check by superior officers of this portion of his work would be difficult. By Colonel Wace's proposed arrangement there might be a village and a portion of another village on one side of a deep stream, and the remaining portion of the circle on the other. On the other hand, the constant transfer of villages from one jurisdiction to another, as the deep stream changes its course, is, as Colonel Wace points out in paragraph 7 of his memo., productive of serious inconvenience to the administration and to the people concerned.

Each case of a river boundary should thus, I think, be taken up on its merits.

I regret the delay in replying to this letter, but a reference made to Rái Kirpa Rám, Extra Assistant Commissioner, on the subject was kept long unanswered.

No. 212, dated 8th May 1888.

From—W. O. CLARK, Esquire, Deputy Commissioner, Lahore,

To—The Commissioner and Superintendent, Lahore Division.

I HAVE the honor to reply to your Circular No. 55, dated 16th March 1888. I think the method of determining the boundaries of districts which are separated by a river as proposed by Colonel Wace is a most convenient one, and is not attended with any difficulties.

No. 146, dated 2nd April 1888.

From—J. C. BROWN, Esquire, Deputy Commissioner, Gurdáspur,

To—The Commissioner and Superintendent, Lahore Division.

I HAVE the honor to reply to your Circular No. 55, dated 16th ultimo, on the subject of boundaries of districts separated by a river.

2. The custom in this district, I believe, has been that if land accretes to one side of the river it becomes attached to and part of the village to which it has accreted. And if it is suddenly cut off by avulsion it remains the property of the original owners. That is, the district boundaries change in one direction or the other whenever the area of a border village is altered in one or other of the ways above indicated. And in some cases the village boundary, and with it the district boundary, changes under the deep-stream rule without any addition to the actual border areas.

3. This has sometimes been a source of undoubted confusion, and has led to complications. A file on this subject was pending in the Muzaffargarh District Office when I was in charge of that district, and, if I remember rightly, some complicated questions arose in connection with it.

4. In my opinion the safest and best way is to have a defined boundary for each border village, irrespective of river changes, and I would recommend the adoption of this plan. Careful surveys would of course be necessary to fix a demarcation line which is liable to constant flooding, but this should be practicable in this district, though difficult in the case of rivers like the Chenáb and the Indus, whose beds are sometimes many miles wide.

No. 1, dated 27th April 1888.

From—G. C. Walker, Esquire, Settlement Officer, Lahore,

To—The Commissioner and Superintendent, Lahore Division.

With reference to your endorsement forwarding for opinion printed correspondence on the subject of the boundaries of districts which are separated by *a river*, I have the honor to reply that the deep-stream boundary rule is alleged to be unpopular in this district owing to the loss occasioned under that system to owners.

2. The boundaries of the border alluvial villages should be fixed, and these fixed boundaries should constitute the district boundaries.

3. For the purpose of defining the jurisdiction of villages that have already been divided into two parts by the river, I should recommend the village being treated as belonging to the district in which the village site stands.

No. 121, dated 2nd May 1888.

From—John A. Grant, Esquire, C. S., Assistant Commissioner, Amritsar,

To—The Commissioner and Superintendent, Lahore Division.

I have the honor to reply to your Circular No. 55, dated 16th March 1888.

2. In my opinion any measure tending to abolish the deep-stream rule would be a step in advance even if it is only intended to abolish it at present so far as it governs the boundaries of districts (*sic* in original) are real, and to those mentioned by Colonel Wace in paragraph 7 of the letter of 20th April 1882, I would add the delays that take place before it is decided whether facts justify the transfer of a village from one district to another, and the necessity of altering the maps prepared by the Survey Department at considerable expense whenever a transfer is decided on. Correspondence has been known to go on for months before the respective District Officers are agreed upon the transfer, during which time the village is no body's child, and its interests are not unlikely to suffer. Again, in the case referred to in Colonel Wace's paragraph 8, when the villagers find themselves by the action of the river owning land in two districts, the inconvenience is severely felt when they discover that they are subject to a double set of officials,—two patwárís, two zaildárs, &c.

3. But Colonel Wace's proposal only provides for the establishment of a permanent district boundary in cases where the deep-stream rule is not in force in determining owner ship. I should like to see the reform carried further and the district boundary laid down permanently once for all along the whole line wherever the river was formerly regarded as the limit. I would, in fact, lay down the boundary between the districts as it has been laid down in this district and the Kapurthala State, and adopt that boundary for all public purposes whether revenue, judicial or administrative. There would be obvious inconvenience in adopting one boundary for revenue purposes and another for the jurisdiction of Civil Courts and administrative control.

The fixed boundary could easily be laid down while a settlement was in progress, and the boundary as then defined would follow the existing limits of villages and would be adhered to even afterwards. Offsets from permanent pillars on either bank could be resorted to when the ground did not admit of pillars being placed along the actual line. With quadrennial revisions of record and correction of field maps opportunity would be afforded for promptly settling disputes which might arise as to the course of the boundary in alluvial lands. It is possible that if this were done, the deep-stream custom as governing ownership would be gradually broken down and obliterated in time, and the residents of alluvial villages be led to look upon the fixed boundary as the limit in every case.

No. 186, dated Gurdáspur, 12th April 1888.

From—L. W. Dane, Esquire, Settlement Collector, Gurdáspur,

To—The Commissioner and Superintendent, Lahore Division.

I have the honor to acknowledge the receipt of your Circular No. 55, dated 16th ultimo, asking for an expression of my opinion on the subject of determining the boundary of districts affected by river action for general revenue purposes.

2. There is no doubt that for obvious reasons it is desirable to have a fixed line for a district boundary instead of one which is liable to vary from year to year, as must always be the case where the boundary is demarcated in accordance with the deep-stream rule; but I doubt whether the course proposed by the Settlement Commissioner would result in giving such a boundary. To take the case of the boundary between this district and Hoshiárpur on the Beás. An attempt was made in about 1868 to lay down a fixed boundary for all the riverain villages, which should be treated as the district boundary also. Some of the villages, however, refused to accept a fixed boundary and others by judicial proceedings have succeeded in getting the fixed boundary set aside as the limit of ownership, and a somewhat general wish to return to the old deep-stream rule is evident all along the line.

3. In fact, the state of things contemplated in paragraph 11 of the Settlement Commissioner's letter has been realized and the result is anything but satisfactory. Until the question of what is the boundary of a particular village is decided, it is impossible to say what is the district boundary, and instances are not rare in which, owing to a dispute as to proprietary right, revenue for the same piece of land is paid by the contending parties in both districts. I will not allude to the difficulties attending such a state of things from the point of view of the criminal administration of the district. On the whole, however, the inconveniences attending an uncertain district boundary depending on village boundaries, which have to be ascertained from time to time, are perhaps less than those which appear to result from the application of the deep-stream rule, and it may be advisable to alter the system in force on the Sutlej to what is said to be the case elsewhere throughout the Province, though I cannot say that after my recent experiences I am strongly in favour of such a course in the case of deep and rapid streams.

4. Theoretically of course the best district boundary is a fixed line laid down once for all along the river bed, but in practice even this is found not to be so satisfactory as it appears on paper. In the case of the boundary between this district and Jammu on the Rávi and this district and Kapurthala on the Beás, the deep-stream rule for determining the limit of jurisdiction was modified some eight years ago, and a fixed line laid down, which was in each case surveyed by a European Surveyor; so that presumably no difficulty should have been experienced in again laying it down. Great difficulty has, however, been met with, as in one case the pacca boundary pillars were not set up in the places indicated by the surveyor, and in the other the paper showing the distances between the pillars and the high bank has been mislaid and cannot be found. The result is confusion worse confounded; and if such is the result of a survey under European superintendence, it is not likely that a more easily ascertainable boundary which would be agreed to by both parties could be laid down by ordinary patwárís.

5. The deep-stream rule has at any rate the advantage that the boundary of the district is plain and easily determinable, as instances of two deep streams are not common; and, though cases are said to have occurred in which the boat containing the officers deputed to decide which of two such streams is the main channel has been brought to a standstill by obstructions artificially constructed by one or other of the parties, this of course can very rarely be possible.

No. 266, dated 22nd May 1888.

From—Colonel R. P. Nisbet, C.I.E., Commissioner and Superintendent, Ráwalpindi Division,

To—The Senior Secretary to Financial Commissioner, Punjab.

Deputy Commissioner, Ráwalpindi's No. 1168 G, dated 30th April 1888.
Deputy Commissioner, Jhelum's No. 97, dated 7th April 1888, and enclosure.
Deputy Commissioner, Gujrat's No. 499, dated 9th May 1888.
Deputy Commissioner, Shahpur's No. 103, dated 16th April 1888.
Deputy Commissioner Gujránwála's No. 99, dated 8th May 1888, and a tracing of River Chenáb.
Deputy Commissioner, Siálkot's No. 137, dated 9th April 1888.

With reference to your general letter No. 916, dated 16th February last, I have the honor to submit, in original, the replies marginally noted from the different District Officers of this Division, giving their opinions as to the rule by which the boundaries of districts separated by rivers should be regulated. The weight of the opinions is in favor of the rule proposed in Colonel Wace's letter as Settlement Commissioner, No. 167 C., dated 20th April 1882, paragraphs 9 to 12, namely, that the boundaries of adjacent districts should be the boundary of ownership which divides the border villages of each. I agree with Mr. Gardiner and Mr. Wilson that it would not be advisable, at present at any rate, to fix immutably the district boundaries on the above plan once and for all. I am averse to the transfer of parts of villages from one district to another in consequence of the vagaries of the streams on which they are situated. But I think that once a village is transferred by avulsion wholly or mainly (including the village site) to the opposite side of a stream, the village, with its records, should be officially transferred from the old to the new district to

which it is attached, and any portion remaining in the old district should be transferred with it. It would often be difficult to manage a village so transferred from the district to which it originally belonged, especially during the floods.

2. I think, too, that the rule that applies to districts should be applied also to tahsíls separated by a river.

No. 1168 G., dated 30th April 1888.

From—J. W. Gardiner, Esquire, Deputy Commissioner Ráwalpindi,

To—The Commissioner and Superintendent, Ráwalpindi Division.

In reply to your Circular No. $\frac{44}{842}$, dated 17th ultimo, I have the honor to state that in my opinion the best method of determining the boundaries of districts which are separated by a river is that proposed by Colonel E. G. Wace in the letter re-printed with Financial Commissioner's general letter No. 916, dated 16th February last, *viz.*, by saying that the boundary which divides the two districts is the same as that which divides the border estates.

2. You may remember that when I was at Shahpur in 1885 this question, as far as it concerned the Chenáb, formed the subject of a correspondence which was printed last year in the Selections from the Records of the Financial Commissioner's office No. 35. At page 773 is a letter in which I recorded my opinion that the rule then proposed by Mr. J. G. Silcock was the best that could be applied in the case of the Chenáb, and that rule seems to be the same as that suggested by Colonel Wace in the correspondence now circulated; for Mr. Silcock wrote, "Land transferred unchanged by avulsion should remain attached to the village and district to which it belongs in proprietary right. No such land should be transferred from one district to the other until or unless so much of the village has been so transferred that it is necessary to transfer the village bodily to the other district."

3. The correspondence now circulated seems to assume that when once the boundary between two districts is fixed in the manner proposed it can never be altered again; but I think a change in the course of the river, coupled with other circumstances, might make it advisable to transfer a whole estate from one district to another, and such an arrangement should in my opinion continue to be possible as it is at present.

No. 97, dated 7th April 1888.

From—H. C. Cookson, Esquire, Deputy Commissioner, Jhelum,

To—The Commissioner and Superintendent, Ráwalpindi Division.

In reply to your Circular No. 44 of 17th March, on the subject of the deep-stream rule as fixing the boundary for revenue purposes between two districts separated by a river, I have the honor to forward the opinion of Munshi Pohlo Mal, Revenue Extra Assistant Commissioner, whom I have consulted on the subject, and to say that I quite agree with what Mr. Thomson says on page 215 of the Settlement Report of this district, that the "Hadd Sikandri," or deep-stream boundary rule, which is only partially in force in this district, had much better be abolished altogether and fixed boundaries substituted for it.

Opinion by Rai Pohlo Mal regarding the method of defining the boundary between the Gujrát and Jhelum districts.

In my opinion the best method of determining and defining the boundary between the Gujrát and Jhelum districts, which are separated by the River Jhelum, is that suggested in Colonel Wace's letter.

The "Hadd Sikandri" custom prevailing in certain villages on the opposite banks of the river was inquired into and recorded by Colonel Wace himself as Settlement Officer during settlement operations in the Gujrát District, and a list of these villages is attached to his Robkári, dated 3rd March 1868, and this list can be safely used in determining the district boundary, as far as these villages are concerned, on the method suggested in Colonel Wace's letter.

The extent to which the deep-stream rule of "Hadd Sikandri" applies to this district is described by Mr. Thomson in his Settlement Report, paragraph 215, page 159. Beyond that the villages on both sides have fixed boundaries.

As regards the boundary between Jhelum and Shahpur, I have examined the Wájib-ul-arz of the alluvial villages and find that each of these villages has its fixed boundaries.

In the coming re-settlement of the Shahpur and Gujrát districts, it would be possible to remove the defects in the village maps of those districts which were noticed in

Mr. Thomson's Report so as to make them coincide with those of Jhelum where the villages have fixed boundaries. Then the lists of border villages could be drawn up in the manner proposed by Colonel Wace and the district boundaries thus determined.

No. 499, dated 9th May 1888.

From—G. Knox, Esquire, Deputy Commissioner, Gujrát,

To—The Commissioner and Superintendent, Ráwalpindi Division.

I have read through the file connected with your Circular No. $\frac{44}{642}$ of 30th April, and cannot advance any argument that has not been considered before.

A *primâ facie* solution of difficulty would be to make the riverain villages on each side of the river subject to one district, but the advantages would be overwhelmed by difficulties, especially during the inundation months.

I cannot urge anything, however, against the proposal of the Financial Commissioner.

No. 103, dated 16th April 1888.

From—J. Wilson, Esquire, Deputy Commissioner, Shahpur,

To—The Commissioner and Superintendent, Ráwalpindi Division.

In compliance with your Circular No. $\frac{44}{642}$ dated 17th March 1888, I have the honor to submit the following opinion on the subject of the boundaries of districts and tahsíls which are separated by a river.

2. In this district hitherto the district and tahsíl boundaries on the Jhelum, following the rule of proprietary right (Settlement Report, paragraph 312), have remained fixed, land belonging to a Shahpur village remaining on the Shahpur rent roll although cut off from the Shahpur side by the deep-stream of the Jhelum; and where the village boundaries are not effected by any change in the stream (*wár pár banna*), there can be no doubt that this rule regarding district boundaries is the only convenient one, for it would cause unnecessary trouble to villagers on this side the river to have to pay part of their revenue in the Jhelum district simply because some of the land still owned by them has been cut off by the river.

3. On the Chenáb, proprietary right, except in case of avulsion, is determined by the deep-stream, and village boundaries are therefore constantly varying. Even here, however, land transferred by avulsion to the Gujránwála side of the deep stream has remained on the revenue roll of this district unless the greater part of the village lands, including the village site itself, has been transferred, and in such cases not merely the separated portion but the whole *mauza* goes over to Gujránwála (Financial Commissioner's No. 8539, dated 15th December 1885. See Selections from Financial Commissioner's Records, No. 35, page 779).

4. All are agreed that the present practice is the most convenient both to officials and people. I recommend therefore that the present method of determining the district and tahsíl boundaries be maintained, and that it be notified in the manner suggested by Colonel Wace and Mr. Lyall, *viz.*, by publishing lists of the villages, whose boundaries are those of the district and tahsíl, wherever the river be. It would be easy in the case of the avulsion of a whole village by the action of the river to notify its transfer from one jurisdiction to another.

No. 99, dated 8th May 1888.

From—Lieutenant-Colonel R. Bartholomew, Deputy Commissioner, Gujránwála,

To—The Commissioner and Superintendent, Ráwalpindi Division.

In reply to your Circular No. $\frac{44}{642}$, dated the 17th March 1888, I have the honor to submit my opinion and a tracing of the River Chenáb with villages along both banks through the districts of Gujránwála and Shahpur, on which I have made pencil tracings to show my meaning.

It seems to me that Colonel Wace's solution of the question of district boundaries, in his letter No. 167 C., dated 20th April 1882, does not solve one great difficulty, which is this—

Is the barbarous and unfair rule of the deep-stream rule to be allowed to stand, or shall it be put an end to and the "wár pár" rule introduced?

These rules are defined in Mr. Lyall's letter No. 432, dated 11th July 1878, on page 703 of Selections from the Records of the Financial Commissioner, New Series, No. 9.

If the deep-stream rule remains, a notification under Act VI of 1867, declaring that the boundary dividing districts A and B is the boundary of ownership which divides the villages composing them, would become a dead letter whenever the deep stream changed.

To show my meaning—

Suppose that at the present time the deep stream of the Chenáb (see the tracing sent herewith) flows immediately under the northern or Shahpur bank, and suppose that two years hence the deep stream will flow where I have drawn blue pencil marks.

Suppose also that a notification has been issued declaring that the boundary between Shahpur and Gujránwala is the boundary dividing Tahirke, Baharki, Mirza Bhatu, &c., on the Gujránwála side, and Burj Ziadah, Burj Sarganah, &c., on the Shahpur side.

Two years hence the village boundary of Burj Sheshu and Bákarwála will have advanced to my northern blue pencil, and the village of Shahpur's boundary will have retreated to my southern blue pencil line, and so on with the rest of the villages.

It seems to me that we should treat villages in a river bed just as we should if they were on dry land. If villages so situated had not been hindered by the existence of the river, they would long ago have extended their respective boundaries till they met.

I have drawn a red pencil up the present supposed course of the main stream, and have roughly given half the bed to the villages on each side of the river.

The red pencil line would be the permanent boundary of the two districts, and would also be the boundary of the respective villages.

Wherever the river flowed the boundary would remain the same, and the only inconvenience, to my mind a slight one, would be that suffered by some few villages who would find themselves separated from their tahsíl by the main stream for a time.

By dividing out the river bed between the opposite villages, the area belonging to each village would be decided for ever, and in almost every instance each village would always have a sufficient area for cultivation.

The only exception would be that a village here or there might have its whole area submerged for some years, but the positions of such villages would be absolutely determined, and they would regain possession of their lands as soon as they re-emerged.

Deputy Commissioners or Settlement Officers of conterminous districts with the assistance of a Survey Officer could lay out the boundary of their districts in one cold weather. They would have the permanent revenue survey pillars on each bank to guide them, and would have no difficulty in assigning the proper amount of increment to each village on the rule of frontage or Muhaz.

The three bills which have been drafted to define and amend the law relating to alluvion, avulsion, islands and abandoned river beds have laid down the rule that new islands forming in rivers, except under certain circumstances, are the property of the Crown.

Now, I imagine that, with regard to the Punjab, whatever islands the Crown may have claimed in former times, no new claims of this nature are likely to arise, and it would, I think, be unfair for the Crown to claim what has been formed by soil torn away from some village or other.

The islands now owned by the Crown would, in the extension of village boundaries suggested, be treated as villages, and would have their boundaries extended on their frontage in the same way.

No. 137, dated 9th April 1888.

From—Major J. A. L. MONTGOMERY, Deputy Commissioner, Siálkot,

To—The Commissioner and Superintendent, Ráwalpindi Division.

YOUR Circular No. $\frac{41}{842}$, dated 17th ultimo, forwarding general letter No. 916, dated 16th February 1888, from Senior Secretary to Financial Commissioner, has been left by Colonel Roberts for me to reply to.

With reference thereto, I have the honor to say that I think the procedure suggested in Settlement Commissioner's No. 167 C., dated 20th April 1882, paragraphs 9 to 12, would be a good solution of a question which appears to be treated in various ways in different districts and would stop, once for all, many transfers which are constantly carried out under existing conditions.

No. 560, dated Dera Ismail Khan, 9th May 1888.

From—Colonel E. L. OMMANNEY, Commissioner and Superintendent, Derajút Division,

To—The Senior Secretary to Financial Commissioner, Punjab.

IN compliance with your general letter No. 916, dated 16th February last, on the subject of the boundaries of districts separated by a river, I have the honor to forward copies of the correspondence marginally noted.

Deputy Commissioner, Muzaffargarh's No. 111, dated 26th March 1888.
Deputy Commissioner, Dera Ismail Khan's No. 119, dated 29th March 1888.
Deputy Commissioner, Dera Ghází Khan's No. 231, dated 18th April 1888.
Deputy Commissioner, Bannu's No. 277, dated 3rd May 1888.

2. The opinions are unanimously in favour of the abolition of the deep-stream rule, and, in place of it, defining district boundaries in the same way as is done where there is no river in question; that is, the district boundary

would be the one defining the limits of the border estates of two adjoining districts. There would be no difficulty apparently in carrying this out,—as, for instance, the Indus has been mapped down to the Dera Ghazi Khan District and the village boundaries are all well known,—and no difficulty arises in working this fixed boundary system.

3. The deep-stream rule probably arose and was necessitated where it was followed by the political condition of those times when hostile races or rulers held the oposite sides of rivers. Under a settled Government there is no such necessity, and the convenience of a boundary fixed once and for all between districts admits, I think, of no question. The people residing on the river bank and alluvial tracts are accustomed to cross rivers and their large branches every summer in the pursuit of their ordinary avocations. It would not affect them therefore if while belonging to one district the deep stream came between and they still continued attached to their old district. As to officials, there would not ordinarily be much occasion for their moving about in the flood season, and when necessary there are ferries and more improved communications, and the difficulty would not be much more than is experienced in travelling in other parts of the country at this season.

4. The letter alluded to by the Deputy Commissioner, Dera Ismail Khan, is in a file relating to a transfer of two villages, Bakri and Mirani, from the Sanghar Tahsíl, Dera Ghàzi Khan, to the Leiah Tahsíl, Dera Ismail Khan, by the action of the river. Reference to Deputy Commissioner, Dera Ghάzi Khan, however, showed that they had again been replaced in their former position and that no further action was necessary.

Copy of paragraph 5 alluded is annexed.

No. 111, dated 26th March 1888.

From—H. W. Steel, Esquire, Deputy Commissioner, Muzaffargarh,

To—The Commissioner and Superintendent, Deraját Division.

With reference to your Circular No. 61 of 21st March last and enclosure, I have the honor to report that I have consulted Kázi Ghulám Murtaza, Extra Assistant Commissioner Revenue Assistant, and we agree that the proposal of Financial Commissioner to abolish the deep stream boundary custom and demarcate the district boundaries by villages whose limits are previously ascertained would save much trouble and be easy of adoption here. It would require, however, I think, in the first instance the services of a special officer for a month or two in the cold weather to settle once and for all the villages and their limits in consultation with Mooltan, the Baháwalpur State and Dera Gházi Khan. The initial labour required would, however, be final.

No. 119, dated 29th March 1888.

From—G. M. Ogilvie, Esquire, Deputy Commissioner, Dera Ismail Khan.

To—The Commissioner and Superintendent, Deraját Division.

I have the honor to reply to your Circular No. 61, dated 21st instant.

2. I observe that my opinion regarding the transfer of villages from one district to another caused by the application of the deep-stream boundary rule has already been stated in my No. 349, dated 8th September 1887, paragraph 5, which letter was written in connection with a special case in point.

3. I entirely coincide in the views expressed in paragraphs 7 and 8 of Major Wace's letter, dated 20th April 1882 (printed with the Financial Commissioner's general letter No. 916, dated 16th February 1888, now under reply), and I beg to point out that my opinion previously expressed, as above noted, was to the same effect as that of Major Wace, although at the time of writing that opinion I had not seen this correspondence, the only difference being that the reasons for that opinion are more fully and forcibly expressed in this printed correspondence than in my letter above mentioned.

No. 231, dated $\frac{17th}{18th}$ April 1888.

From—M. L. Dames, Esquire, Deputy Commissioner, Dera Ghάzi Khan,

To—The Commissioner and Superintendent, Derajάt Division.

In reply to your Circular No. 61, dated 21st ultimo, on the subject of the deep-stream boundary between districts, I have the honor to state that the rule which is in force between this district and Muzaffargarh seems to be a reasonable one as long as it is necessary to keep up the deep-stream boundary at all.

2. Here a village belongs as a whole to one district or the other, *viz.*, to that on which the inhabited site or the greater part of the area is situated. The Tahsíldárs of the tahsíls which face each other in the two districts meet every year and report any changes which appear to be necessary in accordance with this rule. This reduces the transfers to a minimum, and prevents perpetual small alterations: a mauza goes over as a whole or not at all.

3. Yet, since the subject has been opened, it seems worth considering whether under present circumstances it is worth while keeping up the deep-stream boundary at all. When both sides are under the same Government there seems to be no reason for transferring mauzás from one district to another except convenience; and it seems probable that the inconvenience caused by the transfer more than counterbalance the inconveniences of having occasionally to cross the river, which is really a very slight one. The people of the villages I believe always wish to remain attached to the district to which they have belonged for many years. Meo, for instance, who have always been accustomed to come to Dera Gházi Khan for their business with Government officials (and also, naturally their private business) are very unwilling to break off all their connections and go to Muzaffargarh, and *vice versâ*. To Government officials the advantage in the saving of time and transfer of records by having a fixed boundary would be great, and I am unable to see what disadvantages would attend it. With the river bed once properly surveyed, as it now is, their would not be the least difficulty in maintaining such a boundary. Where this district borders on the Baháwalpur State a large tract of land on the left bank of the Indus belongs to it. No difficulty is experienced in managing this tract, and none would be felt in managing similar tracts bordering on a British district.

No. 277, dated 3rd May 1888.

From—Lieutenant-Colonel E. R. CONOLLY, Deputy Commissioner, Bannu,

To—The Commissioner and Superintendent, Deraját Division.

I HAVE the honor to reply as follows to your Circular No. 61 of 21st March 1888.

2. I have always found that the fixed boundary system worked in practice in a most satisfactory manner, and is much to be preferred to any other system.

3. The Bannu District offers a capital example of the satisfactory working of the fixed boundary system, as, though the river Indus divides the Isa Khel and Miánwáli Tahsíls, still the alluvial villages in both tahsíls have all fixed boundaries, and as far as I am aware no inconvenience or friction has resulted in the working of this system.

Extract, paragraph 5, of a letter No. 349, dated 8th September 1887, from G. M. OGILVIE, Esquire, Deputy Commissioner, Dera Ismail Khan, to the Commissioner and Superintendent, Deraját Division.

PARA. 5. I observe that the transfer of villages from one district to another is a matter involving considerable difficulty and inconvenience. At least two patwárís' circles, one in each district, become altered, and the statistics of area and revenue of both districts are disturbed. For these reasons I could not recommend the transfer until the necessity for it is clearly established; but I consider that I am bound to report the fact that the transfer appears to have been actually effected by the action of the river. I suggest that a careful survey of the area affected should be made by the Deputy Commissioner of Dera Gházi Khan, who should then report whether in his opinion the transfer is necessary.

No. 235, dated 12th June 1888.

From—Colonel W. G. WATERFIELD, C. S. I., Commissioner and Superintendent, Pesháwar Division,

To—The Senior Secretary to Financial Commissioner, Punjab.

IN reply to his general letter No. 916 of 16th February 1888, forwards copies of the replies of the three Deputy Commissioners in this Division, and adds that the principle laid down by Colonel Wace appears to be suitable.

2. Invites attention to the remarks of the Deputy Commissioner, Hazára, in which the Commissioner agrees about the possible, though improbable, transfer of river land to independent tribes on the right bank of the Indus.

No. 605, dated 29th March 1889.

From—F. D. CUNNINGHAM, Esquire, Deputy Commissioner, Hazára,

To—The Commissioner and Superintendent, Peshâwar Division.

ON the question of fixing district boundaries for general revenue purposes, raised in the correspondence received with your endorsement No. 78—1414 of 22nd instant, I have the honor to say that it seems to me the balance of advantages is in favor of defining the limits of adjacent districts as following the boundary of ownership between named villages, and of making them independent of river changes, as proposed by the Settlement Commissioner in 1882. This system has been in force between tahsíls in Bannu and Dera Ismail Khan, and there is no reason that I can see why it should not work as well between districts as between sub-divisions of districts, *e. g.*, Miánwáli and Bannu, Bhakkar and Dera Ismail Khan. Any notification framed for general application would have to

provide for the case where rivers divide the Punjab from another Province (*e. g.* the Jumna) or from independent territory as the Indus above Torbela.

Practically no difficulty would arise in the latter case, but a notification might perhaps be so drawn up that if lands, now under the Indus or within the boundary of British border villages, were by a court of law awarded to claimants from independent villages across the river, they might be held to be within British territory, but without the Hazára District; or if the limit of the district is here held to be the limit of the Empire, then we should have lands Cis-Indus outside of both this district and of British India. It may be worth while to guard against this, but the case is a hypothetical one not likely to arise or to give trouble.

No 277, dated 6th June 1888.

From—W. R. H. MERK, Esquire, Deputy Commissioner, Peshâwar,

To—The Commissioner and Superintendent, Peshâwar, Division.

IN reply to your endorsement Circular No. 78—1414, dated the 22nd March 1888, forwarding for opinion copy of a general letter No. 916, dated the 16th February 1888, on the subject of boundaries of districts which are separated by a river, I have the honor to state that demarcation of districts as laid down on the principle proposed in paragraph 5 of letter No. 1471, dated the 20th December 1883, from the Senior Secretary to Financial Commissioner, to the Junior Secretary to Government, Punjab, seems the most reasonable and convenient for revenue purposes.

No. 112, dated 26th March 1888.

From—R. UDNY, Esquire, Deputy Commissioner, Kohát,

To—The Commissioner and Superintendent, Peshâwar Division.

IN reply to your Circular No. 78—1415, dated 22nd March 1888, I have the honor to inform you that I have no experience in such matters, and, therefore, no opinion to offer.

[No. 2.]

No 317, dated Lahore, 7th June 1889.

From—H. C. FANSHAWE, Esquire, Junior Secretary to Government, Punjab,

To—The Junior Secretary to Financial Commissioner, Punjab.

I AM now directed to reply to Mr. Walker's letter No. 806, dated 14th November 1888, submitting a proposal for the regulation of boundaries of districts in the Punjab which are separated by a river.

2. Attention was called to this matter in paragraph 6 of His Honor's Review of the Revenue Administration Report for the year 1886-87. The correspondence to which reference was made in that paragraph has been circulated among District Officers, and it appears that there is an almost unanimous consensus of opinion in favour of the proposal contained in the letter of Colonel Wace as Settlement Commissioner, No. 167 C., dated 20th April 1882. That proposal is simply this, that the boundaries of districts shall follow the boundaries of ownership in the boundary villages, the deep-stream rule being adopted where that is the practice followed for regulating proprietary rights, and the fixed boundaries being observed where the villagers on opposite banks define their rights of ownership in accordance with the method. The fixed boundary rule cannot, of course, be universally adopted for the purpose of defining district boundaries until it has been so accepted for the purpose of defining ownership. The deep-stream rule by itself is productive of many disadvantages, and even on the Sutlej, where it has been declared by notification to be the rule governing district boundaries, it has in practice been departed from in many cases throughout the course of that river.

3. It may here be remarked that there used to be two deep-stream customs for decision of proprietary right known in the Punjab—one absolute, which transferred all land cut off by the deep stream, whether the land cut off retained its original form and substance to a recognizable extent or not; the other qualified by the condition that land recognizable in the above sense was not transferred. His Honor doubts whether the absolute custom has survived up to date anywhere: the general sense and the feeling of the Courts and the provisions of the old Di-alluvion Regulation were against it. The

other or qualified custom which the Financial Commissioner proposes to substitute as the district boundary rule for the absolute deep-stream rule in cases in which the village boundaries are not fixed is of course the least simple rule of the two and one not always capable of prompt and speedy final adjudication; but as the question has to be decided in respect to property for the village or estate, there seems to be no objection to make such decision the basis of the rule of boundary of jurisdiction. After full consideration, therefore, of the present correspondence, the Lieutenant-Governor has been pleased to accept the proposals of the Financial Commissioner. The disadvantages arising from the necessity of frequent transfers of estates from one district to another are detailed in paragraphs 7 and 8 of the Settlement Commissioner's letter No. 167 C. of 20th April 1882, and the Lieutenant-Governor believes that the new rule will reduce the numbers of such transfers to a minimum. At the same time, even under the proposed system, some uncertainty as to jurisdiction will exist until cases of disputed boundaries of ownership are decided. Such uncertainties, however, are provided for as regards Civil and Revenue jurisdiction by Section 16 A. of the Civil Procedure Code, which, in the absence of any specially prescribed procedure, applies equally to Revenue jurisdiction (*vide* Section 4 A., Civil Procedure Code, and Section 88, Punjab Tenancy Act, 1887). Similarly, Section 182 of the Criminal Procedure Code covers uncertainties of jurisdiction in criminal matters. The extent to which such uncertainties can be removed and the actual boundary of jurisdiction fixed will depend to some degree upon the action which may be annually taken by Revenue Officers under Section 101 (1) of the Land Revenue Act, which empowers them to define the limits of estates, and under Section 33 (1) and (2), which admits of the annual preparation of maps of alluvial lands, and under Section 36 (2) which authorizes Revenue Officers to put persons best entitled in possession in case of doubt as to possession.

4. It is understood that the limits of jurisdiction of districts for Revenue, Civil and Criminal purposes have in the past always been the same, and it is desirable that under the system now to be adopted the several jurisdictions should continue to be concurrent as regards local area. No difficulty in this respect, however, is anticipated, and to meet any legal objection it can be arranged that the notifications declaring district boundaries shall issue under each of the Acts which empower the Local Government to alter the limits of districts.

5. The first step accordingly which should now be taken is to draw up notifications under Section 5 of the Land Revenue Act, in which the existing boundaries of districts would be defined in the manner suggested in paragraph 12 of the Settlement Commissioner's letter cited above. Subsequent transfers of land from one side of the river to the other would not then require notifications of changes in the limits of the adjoining districts except in the occasional cases refered to in paragraph 2 of the letter under acknowledgment, where, for instance, the village site and most of the village lands have changed sides, and inconvenience is felt by the people in consequence. In all but such exceptional cases the actual boundaries, whatever changes may be wrought by the river, will automatically adjust themselves so as to fall within the definition of boundaries declared by notifications in the form proposed. It will not perhaps be necessary to direct the preparation of such notifications in the case of all districts at once, and in the first instance the Settlement Officers of Ferozepore, Lahore, Amritsar, Shahpur and Gurdáspur might be called upon to draw up the necessary lists of villages before general orders applicable to all districts are issued. The Lieutenant-Governor will, however, leave it entirely to the Financial Commissioner to decide in what districts the matter may be taken up experimentally at first.

6. It will of course be understood that the orders now issued apply equally to the boundaries of tahsíls, and that, as remarked in paragraph 3 of the letter under reply, inter-provincial boundaries and boundaries between British and Native States, in the case in which those boundaries are now governed by the deep-streams of rivers, will not be affected by the new rule.

No. 3954-6, dated 26th June 1889.

From—The Junior Secretary to Financial Commissioner, Punjab,

To—The Commissioners, Delhi, Jullundur, and Lahore.

No. 336, dated 8th May 1888.
No. 2753, dated 18th September 1888.
No. 707, dated 7th September 1888.

I AM directed with reference to your letter noted in the margin to send you a copy of this office letter No. 806, dated 14th November 1888, with enclosures and of Government's reply No. 317, dated 7th June 1889, regarding the regulation of boundaries of districts in this Province which are separated by a river.

2. It will be seen that Government agrees to the proposal that the boundaries of districts shall follow the boundaries of ownership in the boundary villages, and the Financial Commissioner has been invited to submit notifications in the case of a few districts in the form proposed by Colonel Wace in para. 12 of his letter No. 167 C., dated 20th April 1882. The Financial Commissioner has decided in the first place to submit a notification for the Sutlej river only, and I am directed to request that you will prepare a careful list in the form * annexed of the villages lying on that river in your Division and forward it to this office for incorporation in the proposed notification. The names of the villages should be given in Urdu and Hindi, as well as in English.

* Not printed.

3. The list should begin in each case at the highest point upstream and work downstream. It will be remembered that nothing in the present orders affects the boundary between British territory and that of Native States (to Jullundur only), but the Financial Commissioner would be glad to know what system has hitherto been followed in regard to that portion of the Sutlej which forms the boundary between the Kapurthala State and the Ferozepore district.

GAZETTE NOTIFICATION.

The 25th February 1891.

Section 5 of Punjab Land Revenue Act, XVII of 1887.
Section 7 of the Code of Criminal Procedure.
Section 18, sub-section (2), of the Punjab Courts Act, XVIII of 1884.
Section 5 of the Registration Act, III of 1877.

No. 121.—*Notification*.—In modification of Punjab Government Notification No. 344, dated 6th March 1869, and in accordance with the provisions of the enactments noted in the margin, the Hon'ble the Lieutenant-Governor is pleased to direct that, within the limits of the estates specified in the annexed schedule, the common boundaries of ownership of the estates specified in column 3 of that schedule on the one hand and of the estates specified in column 4 of the same schedule on the other hand shall constitute the common boundaries of the tahsíls set forth in columns 2 and 5 and of the districts set forth in columns 1 and 6 of that schedule, in which the aforesaid groups of villages are respectively included.

Schedule not printed.

NOTE.—A similar notification No. 550, dated 11th September 1891, was issued as regards the boundaries of Lahore and Ferozepore.

No. 223C., dated 13th August 1891.

From—The Senior Secretary to Financial Commissioner, Punjab,

To—The Commissioner and Superintendent, Ráwalpindi Division.

WITH reference to Punjab Government Notification No. 121, dated 25th February, regarding the riverain boundaries of tahsíls and districts on the Sutlej, I am directed to forward to you a copy of this office No. 3956, dated 26th June 1889, to the address of the Commissioner of Lahore, and to inform you that the Financial Commissioner has now decided to take up the case of the Rivers Rávi, Chenáb and Jhelum.

2. I am therefore to request you to instruct the Settlement Officers of Siálkot, Gujrát, and Gujránwála, and the Deputy Commissioner of Sháhpur to furnish the required lists. They will be wanted even when a river does not divide districts, but merely two tahsíls included in the same district.

3. Where the rule governing jurisdiction is the deep-stream rule, pure and simple, it will probably be found that in certain cases portions of a single village which are now on opposite sides of a river have been formed into separate estates, and that the landowners are put to considerable inconvenience thereby. In sending up the lists proposals may be made to make any necessary transfers in such cases from one tahsíl or district to another.

4. The establishment of a common boundary for private ownership and jurisdiction will not in any way clash with any plans which may ultimately be adopted for the laying down of fixed boundaries.

No. 224 C., dated 13th August 1891.

From—The Senior Secretary to Financial Commissioner, Punjab,

To—The Commissioner and Superintendent, Lahore Division.

In continuation of this office No. 3956, dated 26th June 1889, and with reference to Punjab Government Notification No. 121, dated 25th February 1891, regarding the riverain boundaries of tahsíls and districts on the Sutlej, I am directed to say that the Financial Commissioner has now decided to take up the case of the Rivers Rávi, Chenáb and Jhelum.

2. I am therefore to request you to obtain the necessary lists from the Deputy Commissioners of Jhang, Mooltan, Montgomery and Muzaffargarh, and from the Settlement Officers of Gurdáspur, Amritsar and Lahore. They will be wanted even when a river does not divide districts but merely two tahsíls included in the same district.

3. Where the rule governing jurisdiction is the deep-stream rule, pure and simple, it will probably be found that in certain cases portions of a single village which are now on opposite sides of a river have been formed into separate estates, and that the landowners are put to considerable inconvenience thereby. In sending up the lists proposals may be made to make any necessary transfers in such cases from one tahsíl or district to another.

No. 6181, dated 8th October 1891.

From—The Senior Secretary to Financial Commissioner, Punjab,

To—The Commissioner and Superintendent, Deraját Division.

With reference to Punjab Government Notifications No. 121, dated 25th February 1891, and No. 550, dated 11th September 1891, regarding the riverain boundaries of tahsíls and districts on the Sutlej, I am directed to forward to you a copy of this office No. 3956, dated 26th June 1889, and to say that the Financial Commissioner has now decided to take up the case of the River Chenáb. I am therefore to request you to obtain the necessary lists of villages from the Deputy Commissioner of Muzaffargarh.

2. Where the rule governing jurisdiction is the deep-stream rule, pure and simple, it will probably be found that in certain cases portions of a single village which are now on opposite sides of a river have been formed into separate estates, and that the landowners are put to considerable inconvenience thereby. In sending up the lists, proposals may be made to make any necessary transfers in such cases from one tahsíl or district to another.

PART G.—SELECTIONS REGARDING RIVERAIN LAW.

Correspondence connected with a proposal to lay down a fixed boundary between districts in the Ráwalpindi Division separated by the Chenáb.

No. 610, dated 12th September 1885.

From—H. E. PERKINS, Esquire, Commissioner and Superintendent, Ráwalpindi Division,

To—The Senior Secretary to Financial Commissioner, Punjab.

From Deputy Commissioner, Shahpur, No. 295, dated 17th July last, with original enclosures.
From Deputy Commissioner, Shahpur, No. 71, dated 3rd March.
Commissioner's reply No. 971, dated 12th idem.
Deputy Commissioner's No. 294, dated 17th July.
Deputy Commissioner's No. 366, dated 5th current.

THE correspondence quoted in the margin, forwarded in original, shows a divergence of views between the Deputy Commissioners of Shahpur and Gujránwála touching the rule to be applied in determining the riverain boundary between their two districts. Parts of the lands of 12 villages have been transferred bodily and in a recognizable form from the former to the latter district. Both the District Officers are agreed that the deep-stream rule which the Shahpur Settlement Report lays down as the governing rule is a bad one. Moreover it appears that it has not been always acted on, and in the case of Mauza Takht Hazára, Mr. Gardiner shows it to work positive hardship, but he does not see his way to alter the rule, particularly as Major Nisbet, Officiating Commissioner, in the case quoted in the margin, and forwarded herewith, held recently that the rules must be applied; while Mr. Silcock, on grounds of expediency and former frequent non-observance of the rule, is disposed to ignore it, and to follow the frequent usage.

Phiada and others *versus* Gahna and others, all of Mauza Abbal in the Shahpur district.

2. I apprehend that Mr. Gardiner is technically right, and that the subject is rendered the more important by the near approach of a second Regular Settlement of the Shahpur district. The orders of the Financial Commissioner seem to be required as to whether a universally condemned rule is or is not to be enforced. A decision on the point by myself is precluded, if for no other reason, by the fact of the case having been so lately decided by my *locum tenens* in regard to one of the villages concerned.

3. The Deputy Commissioner's reference concerning Takht Hazára will be no doubt also disposed of by the orders which may be passed on the present communication. Your office No. 5432, dated 7th September 1869, is the order which was circulated by my office letter of November 1869, which he quotes.

No. 295, dated 17th July 1885.

From—J. W. GARDINER, Esquire, Deputy Commissioner, Shahpur.

To—The Commissioner and Superintendent, Ráwalpindi Division.

(1) Deputy Commissioner, Shahpur's No. 720, dated 29th September 1884.
(2) Deputy Commissioner, Gujránwála's No. 840, dated 7th October 1884.
(3) Deputy Commissioner, Gujránwála's No. 880, dated 25th October 1884.
(4) Deputy Commissioner, Shahpur's No. 934, dated 2nd December 1884.
(5) Deputy Commissioner, Shahpur's No. 304, dated 2nd April 1885.
(6) Deputy Commissioner, Gujránwála's No. 434, dated 13th April 1885.
(7) Deputy Commissioner, Shahpur's No. 427, dated 4th May 1885.
(8) Deputy Commissioner, Gujránwála's No. 545, dated 8th May 1885.
(9) Deputy Commissioner, Gujránwála's No. 601, dated 18th May 1885.

I HAVE the honor to submit the correspondence marginally noted between the Deputy Commissioner, Gujránwála, and myself, regarding the treatment of alluvion and diluvion on the Chenáb, and to suggest that the matter be referred to the Financial Commissioner for orders. The question at all events is a interesting one.

2. I have been in doubt as to whether I ought to submit the matter in the shape of a complete report, or, as I am actually doing, by submission of the correspondence in original, and I have adopted the latter alternative, not so much to save myself trouble, as because the correspondence shows exactly how the question originated, and if I wrote a memorandum, I could do little more than copy out what Messrs. Trafford and Silcock have written, and repeat what I myself wrote to them.

As explained in paragraph 4 of my No. 720, dated 29th September 1884, the case began by a vernacular rubakár from Mr. Trafford asking me to send him the village papers connected with certain lands which had been transferred by avulsion from the right to the left bank of the Chenáb.

4. The correspondence referred to in paragraph 4 of my No. 304, dated 2nd April last, related to a particular case, where there was some doubt expressed as to where the deep-stream actually ran. It is unnecessary to trouble you with its details.

5. There seems to be no doubt that the rule propounded by Mr. Silcock in the second part of paragraph 3 of his No. 434, dated 13th April last, has been hitherto followed on the Chenáb in this district, and that it commends itself entirely to the zamíndárs of the riverside villages. In paragraph 12 of my first letter in the case of Takht Hazára, regarding which I am addressing you in my No. 294 of to-day's date, I have given an instance where the rule presses hardly. But I think it is also equally clear that the practice which Mr. Silcock would wish to re-introduce is opposed to the law as it stands at present, and therefore I suggest that the matter be referred to the Financial Commissioner for orders.

No. 720, dated 29th September 1884.

From—J. W. GARDINER, Esquire, Deputy Commissioner, Shahpur,

To—The Deputy Commissioner, Gujránwála.

In re alluvion and diluvion in the following villages :—

District Gujránwála.		*District Shahpur.*
Mallakánwála	...	Burj Ghulám Rasúl. Hazára. Násirpur Khurd.
Channi Sultán Shah Abal.		
Burj Ghauns	...	Chak Abal. Moriwál.
Burj Futtu	...	Nalti. Badar. Burj Dáim.
Garbi Anderun	...	Dullewála. Kot Nawan.

With reference to your vernacular rubakárs, dated 21st May last, regarding the villages above-mentioned, I have the honor to remark that the Tahsíldár of Bhera reports that it has never been the custom to transfer from this district to yours lands which have been transferred by avulsion from the right to the left bank of the Chenáb, and this assertion is, to a certain extent, corroborated by the passage in paragraph 312 of the Settlement Report of this district, which I proceed to quote :—"On the Chenáb, on the other hand, enquiry showed that in such cases the usage known as the 'Sikandri hadd' law has always prevailed. This rule is precisely that prescribed for observance in Sections IV and V of Regulation XI of 1825, *viz.*, that where land is gained by gradual accession, it shall be considered an increment to the estate to whose land it is thus annexed, but not when the river by a sudden change of course transfers a portion of land from one estate to another, without destroying the identity of the land so removed." This seems to say that land transferred by avulsion does not become an increment to the estate to whose land it is annexed.

2. Moreover, and this is the point to which I chiefly wish to draw your attention, the usage called "hadd sikandri" appears to have no application to the question now under consideration, which is whether land transferred by avulsion from the right to the left bank of the Chenáb should be considered as still part of the Shahpur district or as transferred to Gujránwála. The "hadd sikandri" custom, as I understand it, applies only to proprietary and other subordinate rights, and it seems that we are all agreed that land transferred by avulsion from the right to the left bank of the Chenáb remains the property of the zamíndárs to whom it belonged when it was on this side of the river.

3. The question for decision appears to be, what is the boundary between our two districts? and in paragraph 22 of my Settlement Report I read: "For 25 miles the Chenáb forms the boundary between this district and Gujránwála." As I know of no order overruling this dictum, I accept it as conclusive, and by the Chenáb forming the boundary I understand that the deep stream is meant. It is of course quite intelligible that the zamíndárs of a village on this side of the river do not like a piece of land to be considered as forming part of a village with which they have perhaps nothing in common; but this is entirely a matter for Government to decide, and the zamíndárs have no right to complain, provided their proprietary and other rights are maintained. In extreme cases you would, I presume, propose that the land gained by avulsion be formed into a separate mauza.

4. I am therefore prepared to comply with your request to send you copies of the shajrahs and khasrahs of land transferred by avulsion from the right to the left bank of the Chenáb, but before doing so I think it right to send you the above remarks, and to request your adhesion to the proposition that the matter has no connection with the custom of "hadd sikandri," but depends on the boundary fixed by Government between our districts.

No. 840, dated 7th October 1884.

From—R. W. Trafford, Esquire, Deputy Commissioner, Gujránwála,

To—The Deputy Commissioner, Shahpur.

In reply to your letter No. 720, dated 29th September 1884, as far as I can judge, the question of proprietary will be a matter for decision according to the agreement drawn up at the Settlement of 1868 to regulate the boundary of the villages on the Chenáb affected by alluvion or diluvion. The record in this office is so signed by the lambardárs of the different villages.

How far the facts of this case bring it under one or other of the rules I am not in a position to state positively, that is, I am not prepared either to admit or to deny that the cases are governed by the so-called "hadd sikandri" rule. All that I understand is that, for the purposes of revenue administration, certain blocks of land have been transferred by the action of the river from the Shahpur to the Gujránwála district, and that being the case, the transfer of the necessary papers or other copies of them is solicited.

Your complying with this request will not be understood to imply any opinion as to the proprietary rights, nor to commit me to any opinion either.

No. 880, dated 25th October 1884.

From—R. W. Trafford, Esquire, Deputy Commissioner, Gujránwála,

To—The Deputy Commissioner, Shahpur.

Calls attention to his letter asking for the village maps, &c., of—

(1) Miana Hazára,
(2) Hariwál,
(3) Abdul Chak,
(4) Dowbewála,
(5) Kot Nawa,
(6) Mauza Awal,
(7) Burj Dáim,
(8) Chak Saida,
(9) Tibba Kalán,
(10) Burj Ghulám Rasúl,
(11) Qilla Hazára,

and requests that the papers called for may be sent with as little delay as possible.

No. 934, dated 2nd December 1884.

From—J. W. Gardiner, Esquire, Deputy Commissioner, Shahpur,

To—The Deputy Commissioner, Gujránwála.

With reference to his docket No. 880, dated 25th October last, has the honor to send the village maps wanted by him.

No. 304, dated 2nd April 1885

From—J. W. GARDINER, Esquire, Deputy Commissioner Shahpur,

To—The Deputy Commissioner, Gujránwála.

REFERRING to the correspondence ending with my No. 934, dated 2nd December last, I consider it right to inform you that on my recent tour along the right bank of the Chenáb I ascertained, as a matter of fact, that it has not been the practice of late years to consider as necessarily transferred from one district to the other lands which have been transferred by avulsion from one bank of the Chenáb to the other, nor to accept the deep stream as, as a matter of course, the boundary between the two districts. For instance, on a large island I found that the accepted boundary between our districts was a line running down (approximately) the centre of the island and not the stream on either side. The zamíndárs of this district also claimed that all land of which they could claim the proprietary right, include land which had been transferred to the opposite side of the river by a sudden change of the deep stream should be included in their mauzas and that each mauza as a whole should belong to one district or the other, and this seems in effect to have been the practice hitherto. If I had understood all this before I wrote my No. 720, dated 29th September last, I should have hesitated about complying with your request without representing the matter to the Commissioner and taking his orders on it; for it seems doubtful whether it is expedient to change a practice which has been followed with the approval of the zamíndárs on both banks and which has some advantages over that which your predecessor, Mr. Trafford, introduced last year. Of course if the practice is illegal it must be either abolished or legalized, but it seems possible that the latter course may be preferable, especially as this district is so soon to come under settlement.

2. And even now if you should consider it advisable I should be prepared to join you in representing the matter to the Commissioner for his consideration and orders; but before taking such action it would probably be advisable to ascertain what practice prevails on the Chenáb where it flows between your district and Jhelum, and of this I have no knowledge.

3. It is needless to add that in writing the above I have borne in mind the correspondence ending with your No. 379, dated 27th ultimo.

No. 434, dated 13th April 1885.

From—J. G. SILCOCK, Esquire, Deputy Commissioner, Gujránwála,

To—The Deputy Commissioner, Shahpur.

WITH reference to your No. 304, dated 2nd April, and previous correspondence on the question of the boundaries of our two districts for the purposes of alluvion and diluvion, I have the honor to state that I cannot find any established practice to have existed in this district. No authoritative directions exist, and apparently such matters have hitherto been settled according to the special circumstances of each case, and by agreement between the two Deputy Commissioners.

2. I would propose that matters continue as before, and that there is no necessity for referring any question to the Commissioner until we should happen to disagree on the rule to be applied.

3. My opinion is very strongly that the deep-stream boundary is a very unsatisfactory one, and that if adhered to, there would be a constant succession of difficult cases arising. For ordinary alluvion the deep-stream may be considered satisfactory, *i. e.*, that land thrown up by river action belongs to the village on whose borders it is thrown up, and therefore to the district to which that village belongs. Land transferred unchanged by avulsion through a change in the course of the deep stream (which change may be only temporary), should, I think, remain attached to the village and the district to which it belongs in proprietary right. No such land should, I consider, be transferred from one district to the other until or unless so much of the village has been so transferred that it is necessary to transfer the village bodily to the other district. These are the rules ordinarily in force, and I propose that they should govern the

relations of the two districts in future, and if you agree, I see no reason for referring my matter to the Commissioner.

No. 427, dated 4th May 1885.

From—J. W. GARDINER, Esquire, Deputy Commissioner, Shahpur,

To—The Deputy Commissioner, Gujránwála.

IN reply to your No. 434, dated 14th ultimo, I have the honor to state that I agree with you in thinking that the rule you discribe in your paragraph 3 is the best that can be applied in the case of the Chenáb, but I have never heard of such a rule being in force anywhere, while the deep-stream boundary is, I believe, not infrequently followed; and I don't think the latter could be condemned on the ground that a constant succession of difficult cases would be likely to arise. Of course it might happen that the Deputy Commissioners of the two districts would be unable to agree as to where the deep-stream ran, and it is conceivable that the Civil Courts might try the question in a case, and come to a different conclusion from that arrived at by the Revenue authorities, but ordinarily the Tahsíldárs should be able to settle this point on their annual inspection of alluvion and diluvion.

2. But however this may be, it seems to me that you and I have no right to decide as we think best where the boundary between our districts is to run, and no such decision of ours would be binding on Civil, Criminal, or even Revenue Courts. According to the Shahpur Settlement Report *the Chenáb*, i.e., the deep stream, is the boundary, and the present correspondence arose by your predecessor, Mr. Trafford, claiming to enforce the same rule. Therefore, I take it, the only authorized rule at present existing is the deep-stream boundary, and without a reference to higher authority I cannot take upon myself to alter it in any way whatever. But I am quite ready to refer the matter, and as the settlement of the Shahpur district is expected to commence shortly, I think this is a very good time to make the reference.

3. I may note that on the 23rd ultimo the Commissioner quashed some proceedings of mine regarding the partition of land formerly part of Mauza Abal in this district, but which has been transferred by river action to the left bank of the Chenáb, and referred the persons claiming partition to you.

No. 545, dated 8th May 1885.

From—J. G. SILCOCK, Esquire, Deputy Commissioner, Gujránwála,

To—The Deputy Commissioner, Shahpur.

UNDER the circumstances as stated in your letter No. 427, dated 4th instant, I have no objection to the matter being referred to the Commissioner for the issue of definite orders.

As we are in agreement as to the best rule to be followed, and as you know much more about the circumstances than I do, I should be glad if you would refer the matter.

No. 601, dated 18th May 1885.

From—J. G. SILCOCK, Esquire, Deputy Commissioner, Gujránwála,

To—The Deputy Commissioner, Shahpur.

WITH reference to previous correspondence regarding the river boundary of the two districts, I have the honor to inform you that I have to-day given orders to enter on the registers of this district the lands of the twelve villages of your district that have been by river action transferred to this side of the Chenáb. The total jama to be realized is Rs. 914, which differs from the figures supplied by you.

2. Considering that you are referring the whole question of these transfers and re-transfers to the Commissioner, I should not have given this order were it not that it appears from the vernacular files that you have removed these lands from your registers, and that being so, it was necessary that the lands

should be shown somewhere, especially as the kharíf instalment has not yet been realized.

No. 71, dated Shahpur, the 3rd March 1885.

From—J. W. GARDINER, Esquire, Deputy Commissioner, Shahpur,

To—The Commissioner and Superintendent, Ráwalpindi Division.

I HAVE the honor to request instructions as to what assessment should be made under the alluvion and diluvion rules on the village of Takht Hazára (*alias* Hazára Kalán), a Chenáb riverside village, for the current year.

2. At settlement the culturable area of this village was acres 1,250, and the revenue assessed on it Rs. 593.

3. In this village it is the rule to disregard any increase or decrease which falls short of 10 per cent. upon the culturable area, or rather of 10 per cent. on the revenue; for the calculation seems always to be made on the revenue.

4. The last time previous to the present year that the assessment of this village was altered was some years ago, when the culturable area was found to be acres 1,589, and Rs. 753 were assessed on it.

5. The land which the village had thus gained by alluvion included an island beyond which the deep stream of the river flowed till quite recently. But now the deep stream flows to the west of this island, and, as the latter thus lies on the left bank of the Chenáb, which forms the boundary between this district and that of Gujránwála, this plot of land now forms part of the Gujránwála district. The revenue formerly assessed on this plot was Rs. 32.

6. Besides this change caused by the change in the course of the river there has been since the last change of assessment a gain of 50 acres assessed at Rs. 25, and a loss of 25 acres assessed at Rs. 15, or a net gain of 25 acres assessed at Rs. 10. I find that it has not been the practice here to calculate the changes in such estates every year and ascertain whether the fixed minimum is exceeded in any one year or not; but the changes are carried on from year to year, and when the total exceeds the 10 per cent. limit effect is given to it.

7. Thus, supposing in the case of the present village 30 acres were gained and 10 lost every year for seven years, no change would be made for six years, but in the seventh it would be reported that *in that year* 210 acres had been gained and 70 lost, thus causing a net gain of 130 acres, and as this amount would exceed the 10 per cent. minimum, the assessment of the estate would be increased accordingly. During the seven years the same land might be gained, and lost again and regained, but still it would all be shown as the occurrences of one year.

8. In my opinion this course is not the one prescribed in the rules. I think that papers should be made out each year according to the actual state of things and tested just as is done with villages where effect is given to every gain or loss, and when in any year the difference between the amount shown in the papers for that year and the amount actually paid by the village in the previous year exceeds 10 per cent. on the revenue assessed at settlement, then effect should be given to the revised assessment. The results of this procedure would be much the same as that of the present practice, but the measurements would be tested annually, and the correctness of the revised assessment would be verified by testing the measurements of that year only. At present it seems impossible to test its correctness satisfactorily in any way.

9. But the point on which I specially solicit instructions is as to how the area transferred to the Gujránwála district should be treated. The Tahsíldár proposes to calculate as follows:—An area assessed at Rs. 32 has been transferred to the Gujránwála district, therefore Rs. 32 must be deducted from the Rs. 753 at present assessed on the village, leaving Rs. 721 payable. The net loss from alluvion and diluvion is Rs. 10, which is below the 10 per cent. limit, therefore the village must continue to pay Rs. 721.

10. In my opinion, however, the area transferred to the Gujránwála district must be treated as diluvion. It has been lost to this estate by the action of the river, and according to the rules it does not seem that we have to consider what has become of it. It may, and probably will, be assessed in the Gujránwála district, but supposing it has been annexed to an estate to which the 10 per cent. rule applies, and that the rule exempts it from assessment this year, it would not be assessed at all at present. I would therefore say that the loss by diluvion has been Rs. 25 and 32, or Rs. 57, and the gain by alluvion Rs. 15. The net loss is thus Rs. 42; and as this is less than 10 per cent. on the revenue assessed at settlement, I would maintain the assessment at Rs. 753.

11. It is no doubt true that the 53 acres assessed at Rs. 32 were not transferred from the right to the left bank of the river in 1884. The river changed its course a year or two ago, but the Gujránwála authorities have only lately claimed the revenue on this area, and effect will therefore be given to the transfer in the papers of the current season. I do not see, however, that this makes any difference as regards the point under consideration. If my opinion is correct, the transfer should have been treated as diluvion when the river changed its course, and the result would apparently have been just the same.

12. But the zamíndárs of Takht Hazára consider it a great hardship that the land in question should be annexed to the Gujránwála district at all. They claim that all land of which they can claim the proprietary right, including land which has been transferred to the opposite side of the river by a sudden change in the river, should be included in their mauza, and that the mauza as a whole should belong to one district or the other. This in effect seems to have been the practice in this district hitherto, but, as the Settlement Report for this district describes the Chenáb as the boundary of this district, and the Deputy Commissoner, Gujránwála, claims the revenue of all lands to the east of the deep stream, I feel myself compelled to assent to the transfer of such areas as that now in question.

13. If, however, in addition to their land being transferred to another district, the zamíndárs have to pay revenue on it in that district, while that formerly assessed on it in this is not remitted, they will consider that they have been very cruelly treated indeed. Therefore I should be very glad if you find it possible to take the same view of the case as the Tahsíldár, or to obtain the sanction of the Financial Commissioner to the revenue of Takht Hazára being fixed this year at Rs. 721.

14. I submit the vernacular misl herewith for reference.

No. 971, dated 12th March 1885.

From—Lieut.-Colonel R. P. Nisbet, C.I.E., Commissioner and Superintendent, Ráwalpindi Division,

To—The Deputy Commissioner, Shahpur.

With reference to your No. 71, dated the 3rd instant, and construction of the rules contained in Financial Commissioner's Circular No. XXXI of 1881, I concur in the opinion you express that so much of the area of the village of Takht Hazára that has by river action been transferred to the Gujránwála district must be treated as loss by diluvion to the Shahpur district.

2. With reference to the concluding portion of paragraph 9, I beg you will refer me to the rules under which net increases or net decreases by alluvion or diluvion when under 10 per cent. are not to be taken into account. It would appear that the village of Takht Hazára has by alluvion gained an area assessable at Rs. 22, and has lost by diluvion an area assessable at Rs. 32; therefore in accordance with the concluding portion of paragraph 2 of Financial Commissioner's Circular XXXI of 1881, the alluvion and diluvion statement should show a net decrease of Rs. 10, thus making the assessment of the village Rs. 743 instead of Rs. 721.

3. In your reply I should wish you to inform me, after consulting with the Deputy Commissioner, Gujránwálla, of the amount that he intends to add

to the assessment of his district on account of so much of the area of Takht Hazára as has gone to his side of the river.

No. 294, dated 17th July 1885.

From—J. W. GARDINER, Esquire, Deputy Commissioner, Shahpur,

To—The Commissioner and Superintendent, Ráwalpindi Division.

IN reply to paragraph 2 of your No. 971, dated 12th March last, I have the honor to refer you to your office Circular No. 201-3981, dated 5th November 1869, and to my office reply to it, No. 67, dated 22nd February 1870. The rules on the subject are D. II 15 and 16 of the Rules under the Punjab Land Revenue Act.

2. As explained in paragraph 10 of my No. 71, dated 3rd March, the loss by diluvion in Takht Hazára has been Rs. 57 and the gain by alluvion Rs. 15; so that if the 10 per cent. rule did not apply the assessment would have been reduced by Rs. 42.

3. The Deputy Commissioner, Gujránwála, has added Rs. 16 to the assessment of his district on account of so much of the area of Takht Házára as has gone to his side of the river.

4. In connection with this reference, I would beg leave to draw your attention to paragraph 4 of letter No. 4301, dated 17th ultimo, from the Senior Secretary to Financial Commissioner, to your address, a copy of which was circulated with your Circular No. 115-2714, dated 25th ultimo. From this extract it would appear that the Financial Commissioner is inclined to grant relief in such cases as the present.

No. 366, dated 5th September 1885.

From—J. W. GARDINER, Esquire, Deputy Commissioner, Shahpur,

To—The Commissioner and Superintendent, Ráwalpindi Division.

IN reply to your No. 3186, dated 30th July last, I have the honor to state that as regards the twelve villages concerned the entire area of the village has in no case been transferred to the Gujránwála district. When the whole of the lands of a mauza with the abádi goes over to the Gujránwála side, then as you say, the village is struck out of my district and added by Government order to the Gujránwála district. But I would submit that in every case the deep stream of the Chenáb, according to the rule at present in force, is the boundary between the Shahpur and Gujránwála districts, and that therefore, when a portion of the land of a village is transferred bodily by the action of the river from the right to the left bank, it becomes part of the Gujránwála district and the authorities of that district collect the revenue of it, and would take cognizance, for instance, of an offence committed in it. If this is not so, I do not understand how so much of the area of the village of Takht Hazára as has by river action been transferred to the Gujránwála district can be treated as loss by diluvion to the Shahpur district as laid down in paragraph 1 of your office No. 971, dated 12th March last; and it seems clear that Major Nisbet agreed with my view of the law at present in force. For if I remember rightly he set aside on appeal an order which I had made regarding the partition of lands in one of the very villages now concerned, *viz.*, Mauza Abbal, on the ground that I had no jurisdiction to order partition of lands situate on the left bank of the Chenáb. If you consider this view of the law wrong, I would suggest that you refer this decision of Major Nisbet's in the Abbal case to the Financial Commissioner for revision. In such a reference the matter would be, I presume, finally decided.

IN THE COURT OF THE COMMISSIONER AND SUPERINTENDENT, RAWALPINDI DIVISION.

Revenue and Miscellaneous Appeal, 392 *of* 1885.

Ziáda and 2 others, Shahpur District, defendants, appellants,

versus

Gahna and 8 others, plaintiffs, respondents.

Appeal from the order of Deputy Commissioner, Shahpur, dated 28th January 1885, confirming partition made by Tahsíldár of Bhera.

Grounds.

1st.—The file would show that Hukam Singh is the person agreed to by plaintiffs as their arbitrator, and as such defendant appellants' objections concerning his appointment to make partition are worthy of consideration within the meaning of Rules 7 and 12 of the Rule formed under Section 23 of Act XXXIII of 1871.

2nd.—The quality of land was not taken into consideration at the time of division, and that all superior plots of land have been apportioned to plaintiffs, respondents.

3rd.—The terms of the administration paper were not adhered to in making the said partition.

4th.—The Lower Courts have exceeded their jurisdiction inasmuch as the land in dispute had been transferred to another district at the time of the said division.

5th.—Defendants were not made acquainted with the Judicial Assistant's order. They pray that Hukam Singh's proceedings be considered illegal.

Judgment.

In presence of the parties.

This appeal must be accepted on the fourth ground only, namely, want of jurisdiction in the Deputy Commissioner of Shahpur to order partition of an estate which, situate on the River Chenáb, has been transferred wholly to the Gujránwála district by river action.

The previous proceedings are quashed. Those claiming partition can apply in the Gujránwála district.

RAWALPINDI :
Dated 23*rd April* 1885.

R. P. NISBET, LIEUT.-COL., C.I.E.,
Offg. Commissioner.

IN THE COURT OF J. W. GARDINER, ESQUIRE, DEPUTY COMMISSIONER, SHAHPUR DISTRICT.

ORDER.—Bahádur and others of Abbal have presented an appeal against an order of 21st October 1884, by which the Tahsíldár directed Hukam Singh to divide off the share of Gahna in the shámilát deh. Such an appeal does not lie, as the Tahsíldár has no authority to pass a final order in cases of partition of shámilát deh : he can only report for the orders of a full-powered officer. But the Tahsíldár has also reported the case for orders, and so I have heard the petitioner's objections.

It appears that, after hearing the petitioners, the Tahsíldár reported proposals for determining the mode of partition on 6th May 1884. Thereupon the parties were warned to appear before the Judicial Assistant, and on 7th July the Judicial Assistant disposed of the case. He recorded that the present petitioners had failed to appear, and that if they objected to partition only, Gahna's share was to be divided off. In pursuance of this order Gahna and 2 or 3 others paid in the stamp duty, and on 21st October the Tahsíldár directed that Hukam Singh, patwári, should divide off their shares only. On 24th November the petitioners objected to the partition before the Tahsíldár.

Petitioners now allege that some of them attended before Mr. Clifford but they were not called on and therefore did not go into his court. They knew that Gahna appeared before Mr. Clifford, and he told them that all the land should be divided among all the share-holders.

It thus appears that Bahádur, &c., knew perfectly well that the case was called on by Mr. Clifford, but they took no measures to appear in his court, nor to enquire what order he passed. If they had wished to appear in Mr. Clifford's Court they could certainly have done so; for that officer made a point of doing all in his power to procure the attendance of parties in partition cases, and Bahádur, &c., could not have thought that all the land was going to be divided. At least if they wished this to be done, they should have offered to deposit a proportional share of the stamp duty. Instead of doing this they never enquired at the tahsíl what was going on, nor did they interfere in any way until the partition was complete or nearly so.

Bahádur, &c., make several objections.

They contend that the boundaries of their village have not been fixed, and that partition should not take place till this has been done. But this plea has been overruled, and is a bad one; for in a village situate on the edge of the river there are always changes and frequently disputes. There does not appear to be any special dispute about this village. And as the village administration paper allows partition of the shámilát, any sharer can have partition of his share of the land as it exists at any given time. If it appears hereafter that all the land which in this partition has been assumed to be shámilát was not really Abbal land, Gahna, &c., can be made to give up a proportionate share of the land now awarded to them; and, on the other hand, if more land is added to the village hereafter Gahna, &c., can claim a share in it.

Then petitioners objected that Gahna, &c., have been granted undisputed land, while they have been left in possession of disputed land. The plans filed show that this plea is incorrect: Gahna, &c., have land towards the river.

Again, petitioners object that the whole shámilát should have been divided by arbitrators. No doubt this procedure would have been more satisfactory, but Bahádur, &c., have only themselves to thank that this has not been done. They have done all they could to prevent Gahna getting his share, and, now that they find that he has got it after all, they regret that they did not take part in the partition all along. Also according to the present state of the law they will have to pay full stamp duty calculated on the whole shámilát for the present partition, and if they want further division hereafter, they will have to pay stamp duty over again. So it would have been cheaper if they had all joined in the partition now; but it has been their own fault that they have not done so. The last objection is that Gahna, &c., have got better land than a fair partition would have given them. This is really the only objection worth consideration, and, if I had any reason to think that the partition has been unfair, I would have ordered a new one. But I see no reason to think that the partition has been unfair. Gahna, &c., have had plots of land assigned them in each of the 2 chaks of which the village is composed, and it seems impossible that the best land has been picked out for them. I have no doubt that whatever partition might have been made Bahádur and his party would have objected to it as unfair, as this is an allegation easy to be made and difficult to refute. I see no reason for disallowing the partition.

The report of the Tahsíldár, dated 13th January 1885, is therefore approved. The partition is sanctioned and all the sharers must pay a proportionate share of the stamp duty.

SHAHPUR:
The 28th January 1885.

(Sd.) J. W. GARDINER,
Deputy Commissioner.

N.B.—After writing the above I have heard from the Tahsíl Kánúngo that the whole of the land under consideration is situate on the bank of the

Chenáb, and has been transferred by the action of the river to the Gujránwála district.

I did not understand this when I wrote the order; but on re-consideration I see no reason to change my opinion regarding the fairness and correctness of the partition. It is, however, probable that I had no jurisdiction to decide the case at all. This cannot be helped now.

No. 8539, dated 15th December 1885.

From—R. E. YOUNGHUSBAND, Esquire, Offg. Junior Secretary to Financial Commissioner, Punjab.

To—The Commissioner and Superintendent, Ráwalpindi Division.

I AM directed by the Financial Commissioner to return the Vernacular file received with your letter No. 610, dated the 12th September last (the other enclosures of which have been retained in this office for the present), asking for orders in regard to the riverain boundary between the districts of Shahpur and Gujránwála, and to convey the following remarks.

2. The question to be decided is one of revenue jurisdiction, and the correspondence* shows that hitherto village lands have not passed from the jurisdiction of the revenue officers of the one district to that of the officers of the other district by changes in the deep stream of the Chenáb unless the greater part of the village lands, including the village site itself, has been transferred. In such cases not merely the separated portion, but the whole mauza, went over to the district with which the portion on which the village stands had become incorporated. This is the rule in the North-Western Provinces. It is the only rule which could be adopted without the greatest inconvenience, from a revenue point of view, both to the Government and to the people, and it is the rule which should, in the opinion of the Financial Commissioner, continue to be followed on the Chenáb between the districts of Shahpur and Gujránwála.

* See Deputy Commissioner, Shahpur's No. 304, dated 2nd April 1885, and Deputy Commissioner, Gujránwála's No. 434, dated 13th idem.

3. No special instructions for dealing with the lands of river villages on the Chenáb in the Shahpur district would appear to be required. The correspondence received with your letter shows that of the 36 villages so situated in 12 only is the 10 per cent. rule followed, and in these also the better rule of taking up every case of increment and decrement may (under section 16 of Part II of Chapter D of the rules under the Land Revenue Act) be adopted, if the proprietors so desire. I am to add that when lands are transferred from one side of the river to the other in an identical form, as appears to have occurred in the case of Takht Hazára, no alteration in the assessment of such lands should ordinarily be made.

No. 726, dated 30th October 1890.

From—P. J. FAGAN, Esquire, Junior Secretary to the Financial Commissioner, Punjab.

To—The Revenue Secretary to Government, Punjab.

I AM directed to submit a printed copy of two letters Nos. 399 and 400, dated 8th July, with their enclosures, from the Commissioner of Ráwalpindi, on the subject of the boundaries of riverain villages on the Chenáb in the districts of his Division, together with a copy of the Financial Commissioner's reply.

D. C. J. IBBETSON, Esquire, C.S.

2. I am to enquire whether His Honor the Lieutenant-Governor thinks it advisable that a general enquiry of the kind contemplated in the 5th paragraph of my No. 6870, dated 30th instant, to the Commissioner, should be instituted with a view to the propriety of legislation on the lines suggested by Mr. Thorburn being considered.

No. 399, dated Ráwalpindi, 8th July 1890.

From—S. S. Thorburn, Esquire, Officiating Commissioner and Superintendent, Ráwalpindi Division.

To—The Senior Secretary to Financial Commissioner, Punjab.

Commissioner's Circular No. 45/1123 dated 15th April 1890.
Settlement Collector, Gujrát's No. 64, dated 22nd April 1890.
Commissioner's Circular No. 62/1460, dated 8th May 1890.
Deputy Commissioner Shahpur's No. 112, dated 5th May 1890, and enclosure.
Settlement Collector, Gujránwála's No. 180, dated 13th May 1890.
Settlement Collector Siálkot's No. 289/S. dated 26th May 1890.
Settlement Collector Gujrát's No. 96, dated 11th June 1890, and enclosure.

I have the honor to submit, for orders, copy of correspondence marginally detailed on certain questions of boundaries and measurement between riverain Chenáb villages in districts in this Division now under revision of assessment with a common boundary in the "deep stream" of the Chenáb.

2. The districts concerned are Gujrát and Shahpur to the north and north-west, and Siálkot and Gujranwála to the south and south-east of the Chenáb. The "deep stream" has hitherto been regarded as the boundary both of jurisdiction and in a modified form of ownership as well. Captain Davies and Mr. O'Dwyer lately conferred with Major Montgomery and Mr. Dunlop Smith at Siálkot on the subject of "riverain laws" as described in pages 58—60 of the Gujrát Revised Settlement Report, and Captain Davies drew up a report on the conclusions arrived at, in which all four officers concur. The report is No. 96, dated 11th ultimo, and is the last annexure to this letter. In paragraph 2 Captain Davies summarises the "laws" now in force to effect that (1) the deep or main stream is the boundary of district jurisdiction. (2) accretion belongs to nearest adjacent land, and (3) avulsion causes no change in possession. The same rules generally apply on the Chenab for the Shahpur District (paragraph 312, Shahpur Settlement Report).

3. As regards jurisdiction the old rule of "deep stream" has been now superseded by one which prescribes that "the boundaries of districts shall follow the boundaries of ownership in the boundary villages" (paragraph 2 of Mr. Fanshawe's No. 317, dated 7th June 1889, to Junior Secretary to Financial Commissioner). This being so, and ownership following the modified "deep stream" rules summarised above, the only question for reference is whether measurements should stop abruptly at the nearer bank of the "deep stream"—thus leaving the main channel unmeasured—or should be produced to a common line on one or other bank. The four officers concerned think such junction unnecessary as the deep stream "will be included in no maps as it is outside the village boundaries as defined by ownership" (paragraph 5 of No. 96).

4. I think myself the surveys of opposite riverain villages should be joined, the deep stream being shown in one or both village maps, but outside the village boundary. By so doing a truer and complete survey will be obtained at small extra labor. Moreover should the barbarous and generally condemned "deep stream" rule of ownership applied to villages in different districts be some day superseded by the rational and generally approved "fixed boundary" rule (*see* my No. 400 of this date), no new survey will be necessary.

5. As to proposal in paragraph 8 of No. 96, as all the officers concerned assume that in the case of villages that have since 1860 "entirely disappeared" their land or any portion of it reforming "on the same side of the river from which it disappeared * * * will at once" revert to the original owners, I suppose that the assumption is correct. If so, I think names and facts concerning the at present non-existent villages should be, as proposed, shown and recorded. As to the alleged rule itself, I draw attention that if correctly stated it shows that for such villages on their own side of the deep stream a rule of "fixed boundary" obtains. By the ordinary rule of accretion such new formations should accrete to the nearest adjacent land. It is curious that such a rule should apply to revenue estates, but be inapplicable to individual holdings inside those estates, in Gujrát at least, in which rule of accretion is I believe observed as to holdings.

P. S.—It occurs to me that as jurisdiction follows ownership, and that stops at the near bank of the deep stream, no portion of the Chenáb main channel is at present in any district of the Punjab! If this is so, curious questions of jurisdiction may yet arise in our law courts.

Circular letter No. 45/1122, dated 15th April 1890.

From—S. S. Thorburn, Esquire, Officiating Commissioner and Superintendent, Ráwalpindi Division.

To—The Settlement Collectors of Siálkot, Gujrát, Gujránwála and Shahpur.

I think an endeavour should be made during the revisions of settlement now progressing in the four districts with tahsil boundaries on the Chenáb to decide the question of deep stream *versus* fixed boundary. I understand that you have exchanged views on the subject with the Settlement Collector having jurisdiction on the further side of the

Chenáb to you. I know the matter is beset with difficulties, but I think that they should be faced and if possible a fixed boundary rule established as to jurisdiction at all events. I request you to consider the subject and let me have information as soon as you can as to—

(1) what the boundary was at last settlement;

(2) gains and losses as they now are;

(3) your opinion as to whether any change in existing rule is advisable, and, if so, how it can be carried out;

(4) whether at the last settlement or at this revision or in the revenue maps village boundaries have at any time been so surveyed as to make them conterminous, and, if not, whether "the deep-stream" has always been left unsurveyed.

No. 64, dated 22nd April 1890.

From—Captain H. S. P. Davies, Settlement Officer, Gujrát,

To—The Commissioner and Superintendent, Ráwalpindi Division.

I have the honor to acknowledge the receipt of your Circular No. 45—1122, dated 15th April 1890, and to state, with regard to the information called for, that—

2. (1). The boundary between Gujrát and Gujránwála and Siálkot at last settlement was the deep stream.

(2). The deep stream does not ever appear to have been surveyed. There are three maps extant,—the revenue survey, the village maps of regular settlement and village maps of revised settlement. In all these maps the survey was carried down to the edge of the deep stream as it was found at the time of measurement. It sometimes happens that at regular settlement the boundaries of an estate were fixed, as there was another estate between it and the river, but at revised settlement the boundary was not recorded as fixed but was taken as the deep stream, owing to the other estate having been entirely carried away by the river. The district map on the scale of 2 miles = 1 inch shows the river as it ran at the time of revenue survey, 1853-55, but the scale is too small for use in district boundaries.

3. Before giving an opinion as to whether any change in existing rules is desirable it will be advisable to state the facts as they now are. At revised settlement an enquiry was conducted and the customs ascertained are given in paragraphs 166—176 of the report. It was then found to be impossible to make a fixed boundary between villages on opposite banks. The rules regarding boundaries have been followed, but the rule by which a village that has suffered from diluvion was to receive land on the opposite bank has not been followed as might have been expected.

4. It is, I think, hopeless to expect that a fixed boundary between villages on opposite banks can ever be settled by mutual agreement. Men in actual possession of land will not give it up without a struggle. This too was the conclusion arrived at in 1868. The Settlement Officer in his letter No. 47, dated 20th April 1868, condemned the system of "hadd Sikandri" or "deep stream" in very forcible terms, but stated that it could not be changed without special legislation. My files do not show whether any answer was sent to this report or not, but no change was effected.

5. I am of opinion that one of two courses should be adopted, either to leave matters as they now stand, the deep stream boundary being recognized, or that the boundaries of all estates should be authoritatively marked out and mapped. Between the districts of Gujránwála and Shahpur a half measure has been adopted whereby land separated by a sudden change in the stream not only remains the property of the original village, but also is included in the district from which it has become separated by the deep stream. It appears to me to be likely to lead to less inconvenience if the deep stream is recognized as the boundary. Land gradually thrown up becomes the property of the village to which it accrues, and all that is required is for the patwári to measure it and for the Revenue Officer to fix the assessment. Land, however, bodily transferred from one side of the deep-stream to the other would remain the property of the original village, but would be struck off from its area and be recorded and assessed as a separate estate in the district to which it has been transferred. The patwári would then clearly understand that all land on his side of the deep stream should be shown in his papers, and that he had no concern with any land that was on the other side of the deep stream.

6. The reasons in favour of a change appear to be that it is considered that the record will be more satisfactory and that the hardship sustained by villages by loss of land from diluvion will be lessened by having fixed boundaries. They appear to be hardly strong enough to warrant a complete change of procedure and custom. There should be no difficulty in keeping up a correct record when maps on the square system have been prepared. If new land is thrown up, it will be only necessary to produce the squares to bring the new land

into its proper place on the map; and if land is carried away, all that is required is that the line of the deep stream be marked on the map. A purely paper boundary is generally unsatisfactory. It leads to constant disputes between villages and correspondence between districts, to say nothing of the loss of time involved by the deputation of officers to point out the boundary according to the map. Nor does it appear certain that villages will suffer loss. If the set of the river is through the land of a village, that village will be neither better off nor worse than it is under the present rules.

7. My opinion on the whole subject is briefly that the present rules should be maintained, that the deep stream should be the recognized boundary between districts, and that the whole of the land down to the edge of the deep stream should be mapped and shown in the papers, whether it is culturable, cultivated or waste.

8. I have not shown any gains or losses as the difficulty in obtaining figures would be great and their correctness more than doubtful, as I have found that patwáris have been in the habit of bringing on to their records not the total amount of land reclaimed from the river, but only that which is recorded as cultivated or culturable.

Circular letter No. $\frac{62}{1469}$, dated 8th May 1890.

From—S. S THORBURN, Esquire, Offg. Commissioner and Superintendent, Ráwalpindi Division,

To—All Settlement Collectors, Ráwalpindi Division.

IN continuation of my Circular No. $\frac{45}{1122}$, dated 15th April 1890, I have the honor to forward, in original, for your information, the correspondence detailed below on the subject of the regulation by boundaries of districts which are separated by a river, and to request that it may be circulated in the order given below, the last-named officer returning it to this office.

Correspondence.

Senior Secretary to Financial Commissioner's No. 2742, dated 29th April 1890, with Revenue and Agricultural Department printed Proceedings Nos. 1—2 of June 1889.

No. 112, dated 5th May 1890.

From—Captain F. W. EGERTON, Deputy Commissioner, Shahpur,

To—The Commissioner and Superintendent, Ráwalpindi Division.

IN compliance with your Circular No. $\frac{45}{1122}$, dated 15th April 1890, I have the honor to report as follows:—

The boundary recognized in this district in the last regular settlement was that known as "the deep stream" or "hadd Sikandri."

Neither in the last settlement, nor in the present revision up to date, nor in the revenue maps have village boundaries at any time been so surveyed as to make them conterminous, and the deep stream has always been left unsurveyed. I am of opinion that the "deep stream" as a boundary has proved a conspicuous failure and that the time has now come when a "fixed boundary" must be adopted between districts marching with each other and separated by the river.

The causes of failure of the "deep stream" rule have been various and manifold, but the chief objection to it is its vagueness and instability.

It is not practical or businesslike to make that a boundary which is never constant.

Nothing could be more harassing to officials than to be permanently engaged in the determination of the ever-recurring issue where is the deep stream.

If the deep stream flowed a little higher as well as a good deal lower than the surrounding waters, it might, under those circumstances, give a workable fluctuating boundary, but the tendency of water to find its level preventing this, in my opinion the deep stream should not be constituted a hidden arbiter of proprietary *right* between district and district, an oracle which requires to be reconsulted in every petty dispute which may arise.

The course which I propose is therefore to abolish the deep stream boundary, to continue the village squares of adjacent villages until they meet somewhere in the river bed, to replace on the best evidence procurable the boundaries of well authenticated submerged villages, the proprietors of which are still to the fore, and to declare, by arbitration or mutual agreement, a fixed and immutable boundary between districts which shall be independent of any subsequent freak of the river.

By this plan it may be that plots and occasionally even villages may be cut off from their district by the deep stream, but the extra trouble to Government officials

thereby entailed will be far less considerable than that endured under the present system by the cultivating owner who by a turn of the deep stream finds himself in an alien district and as it were expatriated besides being separated from his friends.

By the foregoing remarks you will see that I advocate the fixed boundary in its integrity, no provisos! no exceptions for whole villages or parts of villages! no evasions!

By this system all land at present above the village bed will be mapped and proprietary rights in it recorded. Should more land be thrown up it will be measured up and the ownership decided subject to such ascertained dormant rights as may be recorded as existent in the village bed. Should the land be carried away the square system will enable us to tell precisely when it is again thrown up.

Should land by deflexion of the deep stream be placed on the opposite side of the river to that which it formerly occupied, it would not shift its position. It still remains in the same district as heretofore.

It may be urged that the mapping of the whole river bed, deep stream and all, will be a great extra labor, but is not a great extra labor once for all at so appropriate a time as during the progress of a settlement greatly to be preferred to constant bickering and litigation and discontent and discomfort during the whole term of the new settlement—a state of things which an adherence to the present system will ensure?

Then view the list of subsidiary rules required by the deep stream system. What is to be done if a Shahpur village is thrown up in Gujránwála? What, if only ¼th of the village is thrown up, should there be chaks of one district within another?

Should villages be annexed into another Revenue Administration?

Should even parts of villages be so annexed? And many other questions have to be settled by rules.

The system advocated requires no rules, but works itself.

It is I think the only one which can confer justice on riverain landed proprietors. I beg to forward a report of Ghulám Faríd, Revenue Extra Assistant Commissioner, on the subject, in which he has entered at greater length than I have into the deficiencies of the deep stream system.

Report of Revenue Extra Assistant Commissioner GHULAM FARID upon the boundaries between Shahpur and trans-Chenáb districts.

IN the first regular settlement of this district the boundary between the villages of Tahsíl Bhera situated upon the River Chenáb and the riverain villages of *Jhelum* was that known as "hadd Sikandri."

12th August 1863, by order of the Deputy Commissioner, the statements of the villagers were recorded and attested by Sultán Mahmúd Khan, Tahsíldár, and from these statements it would appear that the "hadd Sikandri" system was adopted.

The Wájib-ul-arz contains a similar provision and the Settlement Report mentions it also.

"Hadd Sikandri" is defined as what we call the deep stream rule, *i.e.*, that the deep stream should be deemed the boundary between the districts.

That land thrown up on the opposite side of the deep stream to that from which it was washed away should be deemed the property of that village in front of which thrown up.

If the river should so change its course as to flow on a different side of any land without the land disappearing, that land to remain as formerly in possession of the proprietors. Cases were settled on these principles, 17th January 1878.

Mauza Paon Baz, District Gujránwála, and Chak Chuha, District Shahpur. Zulfikár Ali on behalf of Shahpur and Mohan Bír on behalf of Gujránwála decided in this manner.

There are probably many other similar decisions.

It is therefore proved that at settlement the deep stream rule or hadd Sikandri was adopted and has since been acted upon.

Query II.—In my opinion the present system is open to many serious objections.

The deep stream does not form a good boundary.

It will be well to refer to some of the principal defects briefly as space will permit.

First. There is a constant dispute between villagers as to where the deep stream actually lies and each zamíndár declares it to be in that place where he derives most advantage from its locations.

There is never any end to this dispute.

It is constantly necessary for the District Officer himself to decide the matter on the spot—none of his principal officers. There is constant friction on this account between this district and Gujránwála, and no understanding is arrived at.

The whole line is now under dispute, and if the deep stream is laid down by an officer one year, the next year the same question is raised. The deep stream is constantly changing its position.

II.—When land has been carried away from one village by the river and gradually secreted on the opposite bank, so as to become an integral portion of a village on the opposite side, the old proprietors are ruined. This is a great objection when land is thrown up. There are numerous claimants, and all sorts of disputes crop up.

III.—It constantly happens that land avulsed from one bank is thrown up on the other side, or that land changes sides by deflexion of the course of the river. Cases arising out of these circumstances take a great length of time to decide. The rich people seize on land which belongs to the poor and get it into their possession. If land is carried away and re-deposited in the same place, it is seized by more powerful, to the exclusion of the poor proprietor.

When land changes sides by a deflexion of the course of the river, it is at once seized upon and declared to have been cast up by the river.

IV.—It frequently happens that proprietors of different districts in the hope of proving proprietary right have the same piece of land measured up in different districts; so one plot of land pays two-fold revenue. This is really a very common occurrence.

V.—It is constantly necessary to send executive files for reference from one district to the other.

VI.—It is a serious trouble to proprietors that when their land by deflexion of the river is placed on the opposite side of the river to that which it occupied, they become proprietors in a different district, to which they do not belong.

VII.—The lands under the river bed do not come under measurement. Thus when the river changes its course it is impossible often to say whom the land belongs to.

There are plenty of other objections which it is hardly necessary to mention.

Query III.—This prevailing system should certainly be abolished.

Fixed and immutable boundaries between villages should be laid down.

These boundaries should be shown in the "shajra kishtwár" of each village. Land issuing from river bed should be included in that village where it is laid down. To effect this it will be necessary to sketch the whole of the river bed and fix regular boundaries. The zamindárs will certainly approve of this plan. The plan will be less liable to errors than the present plan.

The villages which are at present dormant in the village bed must have their areas computed and must be traced upon the shajra, and when they are thrown up they will be the property of the old proprietors. The system recommended is as full of advantages as the present is full of errors.

One question arises as to what district a village should be reckoned in which crosses the stream. I think it should be in that district from which it was carried away, but this will necessitate revenue officials constantly crossing the river. That does not matter much. The trouble to officials is not to be compared with that occasioned to cultivator, on being transferred from one district to another.

Query IV.—Sand and small stretches of water have been measured in former settlement, but when the actual river intervened the measurements ceased and the words "banna dariya" were inserted.

Thus the hadd Sikandri or deep stream has always remained outside measurements. Hence all the disputes and constant trouble. I recollect that at last settlement measurements were only carried up to the main stream. This was the case in the Gujránwála district also.

The only way to avoid the old evil of land being twice measured owing to deflexion of the main stream is to fix an absolute boundary between districts.

No. 180, dated 13th May 1890.

From—M. F. O'Dwyer, Esquire, Settlement Officer, Gujránwála,

To—The Commissioner and Superintendent, Rawálpindi Division.

In reply to your Circular No. 45—1122, dated 15th ultimo, I have the honor to state that I have collected the information you desire and have ascertained the views of Settlement Collector, Gujrát, and Deputy Commissioner, Shahpur, on the question of fixed boundaries *versus* deep stream.

2. The Deputy Commissioner, Shahpur, and myself adopt the same views that fixed boundaries should be established. The Settlement Collector, Gujrát, wishes to adhere to the deep stream, but before making any detailed report on the subject, I wish to exchange views with the Settlement Collector, Siálkot, who has proposed that we should meet and discuss the question with Settlement Collector, Gujrát.

I trust therefore that the submission of the report may be deferred for another month.

No. 289 S., dated 26th May 1890.

From—Lieutenant J. R. DUNLOP SMITH, Settlement Officer, Siálkot.

To—The Commissioner and Superintendent, Ráwalpindi Division.

I HAVE the honor to acknowledge receipt of your Circular No. 45—1122, dated 15th April 1890, and to state that the Settlement Collectors of Gujrát and Gujránwála came to Siálkot on Saturday, the 24th May, and it was agreed by all three that a joint report on the subject should be prepared by Captain Davies and submitted to you embodying the views of all of us.

No. 96, dated 11th June 1890.

From—Captain H. S. P. DAVIES, Settlement Officer, Gujrát,

To—The Commissioner and Superintendent, Ráwalpindi Division.

I HAVE the honor to report that some divergence in practice was found to exist in measurement of riverain villages on the Chenáb and parts of villages were either being measured in districts on both sides of the river or were not being measured in either.

2. The riverain lands between the districts of Gujrát and Siálkot and Gujránwála as ascertained at an enquiry made in 1868 are recorded on pages 58—60, Gujrát Revised Settlement Report. The chief rules found to exist may be briefly stated as follows :—(1) the main stream to be the boundary between the districts; (2) accretion belongs to the village to whose land it has become adjacent; (3) any land detached, as it stands, by the main stream will remain the property of those who cultivated it the year before.

3. The main difficulty has arisen regarding land transferred by the action of the river from one side of the stream to the other. According to the recorded custom such land would pass from one district to another while remaining the property of the original owners. It was found that such land was, on transfer, either formed into a separate mauza, or included into the nearest mauza, or that no transfer was effected. Sometimes too such land would be struck out of the papers of one district but not be included in the opposite district.

4. It has been suggested that the joined boundaries of villages on opposite sides of the Chenáb should be demarcated and fixed. But for the reasons given in Lieutenant Wace's letter to the address of the Settlement Commissioner, No. 47, dated 20th April 1868, * a copy of which is herewith enclosed, this course is impracticable. I offer no opinion as to whether a fixed boundary would overcome all difficulties, but simply state that without the authority of a special Act it is impossible to demarcate a fixed boundary when such demarcation would necessarily change the whole custom of alluvion on the river.

* See in Part C., page 1209, *ante*.

5. In default of fixed boundaries it is admitted that the proposal that the boundaries of districts shall follow the boundaries of ownership in the boundary villages is the best. This proposal has been accepted by Government, as shown in the correspondence ending with your Circular No. 62—1469, dated 8th May 1890, and all that remains is to show the manner in which it will be applied. In the majority of cases on the Chenáb the boundary of ownership is the deep stream. In these cases measurements will be made to the edge of the deep stream. There will be no objection to the squares being prolonged to a point on the opposite bank, so that the surveys on either side can be joined; but this is not essential, as it can always be done when necessity arises. But the fact will always remain that the area under the deep stream will be included in no maps as it is outside the village boundaries as defined by ownership.

6. But where a village owns land on both sides of the deep stream the village will continue to belong to the district in which it is now situated and the land on the opposite side will be measured as a part of the village.

7. The new maps will clearly show any land that may in future become separated from the parent village by river action, and it will be easy to decide whether such land has been thrown up by the ordinary process of accretion or whether it has been in reality detached as it stands. The question as to what is to be considered the actual village and what is to be regarded as a chak can only be decided by the officers of both districts on the spot, and I propose next cold weather to take up all these doubtful cases and to see that they are properly recorded.

8. There is one other point that requires to be mentioned in connection with the district boundaries. The boundaries between the district will be the boundary of ownership between certain villages mentioned by name on one side of the river and certain villages on the opposite side. This does not include the case of those villages that have, within the last 30 years, entirely disappeared. This land may re-appear at any time, and then if it is thrown up on the same side of the river from which it disappeared, its original owner will at once be entitled to possession. I think therefore that the names of these villages, which do not at present exist, ought to be shown, so that on their re-appearance there will be no necessity to notify a new boundary. In determining what villages are to be shown as the boundary villages, I think that we should be guided by the revenue survey maps of 1855.

9. I am authorized to state that the views expressed in this letter are also held by the Deputy Commissioners of Gujrát and Siálkot, and by the Settlement Collectors of Siálkot and Gujránwála.

No. 400, dated 8th July 1890.

From—S. S. Thorburn, Esquire, Offg. Commissioner and Superintendent, Ráwalpindi Division,

To—The Senior Secretary to Financial Commissioner, Punjab.

In continuation of my No. 399 of this date I venture to urge that the opportunity of the concurrent revision of assessments now in progress in the four districts of this Division with common boundaries on the Chenáb main channel be taken for a reconsideration of the question of "fixed" *versus* "deep stream" boundary as the law of ownership.

2. The question was first mooted by Lieutenant Wace in his No. 47, dated 20th April 1868, to the then Settlement Commissioner. In paragraph 4 of that letter he stated "that the voice of the intelligent portion of the agriculturists is very strongly condemnatory of the *Sikandri hadd*. They stigmatize it as a relic of the old days of misrule in the very words of our old proverb :—

'They should take who have the might,
'And they should keep who can';

few zamindárs of the old days being strong enough to maintain their hold on land from which the main stream cut them off. They term it a game of gambling and are weary of a custom which, though all else round them is under our firm rule settled and secure, makes the zamindárs who own the alluvial lands the victims of every new set that the rivers from year to year may chance to take. I cannot describe the evil of this *Sikandari hadd* in more appropriate terms than these, and that the zamindárs themselves should speak of it in such forcible terms is I think a very strong argument for our interfering." Further, in paragraph 8 he said : "I believe that the weight of the opinions of all the chief revenue authorities in the Province is in favour of the abandonment of the *Sikandari hadd*. I would ask you to consider whether there is not here a fair case for interference by a legislative enactment. The legislative enactment is needed (*i*) to give the Local Government power to annul by an administrative order on good cause shown the old *hadd Sikandari* law in any given locality ; (*ii*) to enable the Local Government to appoint an officer with power to apportion finally to the estates on each bank of a river, in respect of which such an order might be issued, their respective shares of the alluvial land. His orders to be final and to have the force of a judicial decree. This second point is a thing that no ordinary Civil Court can do. An ordinary Civil Court can only enforce existing rights as proved by past facts. But what such an officer would have to do would be to introduce a new system, and the basis of his awards would be not *right* as previously exercised, but a balancing of contending claims."

3. In the preceding year our present Lieutenant-Governor, then Officiating Settlement Commissioner, in paragraphs 4 and 5 of his No. 544, dated 23rd September 1867, condemned the "deep-stream" practice quite as strongly as did Lieutenant Wace. I quote the two paragraphs in full :—

"4. In my opinion the system of deep stream boundary is a very bad one. I entirely agree with Mr. Saunder's remarks upon it. I have myself seen how unfairly it works in the Gurdáspur district. It gives to one village for a few years more land than they can make use of and leaves the zamíndárs of the opposite village sitting idle on the bank waiting for the river to turn. Government loses revenue in this way and the value of property in river villages is depreciated.

"5. Amend the system by withdrawing recognizable lands from its influence and it still remains very unsatisfactory. The question whether land is recognizable or not is constantly a very fine one. It may be recognizable to parties who live on the banks all their lives, but to a stranger it is impossible to say whether it is a new bank or island, or an old bank or island rather damaged by floods. It would still fail to settle claims to the satisfaction of parties as it contains no principle of equity and leaves the matter to chance."

4. If the process of the evolution of the existing state of riverain customs on the Chenáb and other Punjab rivers be examined, I think it will be found to be something like the following. Before annexation the want of a strong Civil Government left communities established on opposite banks of a common river to appropriate intervening land by the rule of might makes right. Hence generally, except where consanguinity or other cause produced by partition of debateable ground a better *modus vivendi*, a loose deep-stream practice was sometimes observed, though generally there was so much available unused land that changes in the many streams of a river mattered little. Upon annexation no fixed custom obtained anywhere. Few villages had demarcated common boundaries. The revenue officers who controlled the revenue matters on the new Province were men imbued with the excellence of the old Roman riparian law, suitable enough for the petty deep-bedded streams of Italy and accustomed to its operation on the rivers and streams of the North-Western Provinces. Such officers had no knowledge of the gigantic vagaries of the great Punjab rivers. They were, therefore, predisposed to adopt the "deep-stream" rule which seemed "as regards jurisdiction" * * * the "one and only safe rule to follow" (Major Lake in 1859), with which naturally in those days the rule of property was shaped to coincide. Local riverain practices arising from the state of semi-independence existing between communities on opposite banks were summarily ascertained and recorded by Settlement Officers on the one hand and by Courts on the other. Once so stereotyped the results became immutable "riverain laws." (*See* Gujrát Settlement Report, pages 58—60). Thus on most rivers the "custom" was largely trained, directed and fixed by the personal views of the local and controlling revenue officers of the day, with the result that generally a "deep stream" rule was established. Exceptionally a "fixed boundary" rule was secured. It exists on some parts of the Jhelum, and, I believe on the portion of the Chenáb in the Jhang and Mooltan districts. On the Indus, too, it has generally been adopted as the rule. So far as the Bannu district is concerned, I can vouch that during my ten years' service in it (1868—1879) I helped to shape and fix many customs and amongst them, for Indus and Kurram villages, the rule of fixed boundaries, both for communities and individuals, whether the area be above or below water (*see* Bannu Settlement Report, paragraphs 13 and 250.) The too early fixation of "riverain laws" through settlements and judicial decisions stopped, I think, the evolution of a sound custom consonant with a strong settled Government. I take it that the above roughly describes how on some parts of our Punjab rivers the "deep stream" and on some the fixed boundary rule came into being as an established rule. There can, I think, be no doubt that had custom been trained with forethought and allowed to grow up gradually instead of having been early fixed in the above ways, some form of permanent boundary rule would be now the general law of property in the alluvial valleys of our Punjab rivers.

5. As regards the "deep-stream" rule of property, we have had for at least 20 years a consensus of opinion amongst all revenue officers, and, what is more, amongst *all zamíndárs* subjected to the rule, always excepting those actually at the time benefited by it, that it is barbarous, unjust, capricious and ruinously expensive, as causing perpetual litigation. Is it then too late to take power to amend an inequitable and generally condemned occasional practice which by accident and want of forethought has been allowed to grow up into a fixed custom ? Granted that the change ought to have been made in 1867-68, when Messrs. Lyall and Wace condemned the barbarity of the deep-stream rule, but why can we not correct the mistake now ? The very rule itself is often self-contradictory, as shown in paragraph 5 of my No. 399 of this date. A lost village recovers its decretion under the "fixed" boundary" rule after almost any lapse of time, provided that the land happens to be reformed within the jurisdiction by "deep-stream" practice of the district in which it was when submerged. Again, as regards individual holdings, we have in some river tracts a "fixed boundary" rule (*e. g.*, for the Jhelum—in the Shahpur district), whilst in other districts, as I believe in that of Gujrát, the rule is that proprietary right is lost on decretion, all lands gained by accretion belonging to the *shámilát deh*.

6. As regards the comparative merits of "deep stream" and "fixed boundary" rules, all opinion, Native as well as European, is absolutely at one. The former has no single argument in its favour except that it has been unwisely allowed to shape itself into a law of property. But even so, can any valid objection be advanced to the passing of an enactment such as that proposed by Lieutenant Wace in 1868, namely, to enable the Government of the Punjab on good cause to annul the "deep-stream" rule in any locality and substitute therefor a "fixed boundary" rule with the proviso added that a strong majority of those who will be affected by the change agree in desiring it ? As said in my first paragraph, the present appears a good opportunity for a re-consideration of the question, at least so far as the Chenáb villages in the districts of Siálkot, Gujrát, Gujránwála and Shahpur are concerned. I earnestly hope that the question will receive full consideration. Its settlement on an equitable basis not only affects the material welfare of tens of thousands of our peasantry now living, but of their descendants also for all time. The question is, are we to leave the law of property in land lying between the permanent high banks, within which our great rivers oscillate to the gambling uncertainty of the "deep-stream" rule with its consequent endless litigation and unsatisfactory results, or are we by a little trouble to-day to gradually extinguish a false system largely of our own

creation and so secure for ever to the owners of riverain lands the only equitable law of property which is consonant with a strong and settled Government ?

No. 6870, dated 30th October 1890.

From—The Junior Secretary to the Financial Commissioner, Punjab,

To—The Commissioner and Superintendent, Ráwalpindi Division.

I AM directed to forward to you six printed copies of your letters Nos. 399 and 400, dated 8th July, and their enclosures, regarding the boundaries of riverain villages on the Chenab in the districts of your Division.

2. In your first you refer two questions for orders. The rule of property on the Chenab is the deep-stream boundary, avulsion, however, not transferring property. As soon as the necessary notifications have issued, jurisdiction will follow the proprietary boundaries. This being so, the question is whether the maps on either side should stop short at the edge of the deep stream or be continued to meet on its middle line. The four Settlement Officers concerned think the former plan will be sufficient, on the ground that the deep stream itself is outside the proprietary boundaries. The Commissioner prefers the latter as giving a fuller survey. The Financial Commissioner cannot agree that the edge of the deep stream is the limit of property. The middle thread of the stream is the true boundary; and if there are two deep streams, the middle thread of each, the land between belonging to Government. But it seems to Mr. Ibbetson unnecessary to produce the maps on either side to that thread, so long as the boundary is not fixed. The marking of the width of the stream upon the map at each point (for that is all that the proposed addition amounts to) can be of no assistance in future disputes, which will always be decided on the facts as they then stand. And reproduce the deep-stream accurately will require a good deal of adjustment and combination between the two survey parties, while to reproduce it only approximately is not desirable.

3. The second question is whether villages shown in the Revenue survey maps of 1855, but which have been cut away during the last thirty years, should be noted on the maps in the approximate positions which they formerly occupied. The proposal to show them is based on the assumption that should land be at any future time thrown upon the site of the old village and on that side of the river on which it stood, the land would belong to the original owners. The truth of this assumption appears to the Financial Commissioner to be exceedingly doubtful; and he certainly cannot accept it without much stronger grounds than are given in the present correspondence. If it is true, its operations should apparently extend to all past times, or, in practice, to the memory of man, and not be limited to the last thirty years. In any case our maps and records are meant to show matters as they are; no record of rights is being prepared for estates which no longer exist; and no such entry should be made as is suggested in Captain Davies' report. If the alleged rights upon which the suggestion was based are undoubtedly recognized by general custom, and duly attested, they would properly find a place in the record of riverain custom.

4. In your second letter you make an important and far-reaching proposal. It is that the necessary legislative authority having been obtained, we should substitute fixed boundaries for the deep-stream rule as regulating property in land in the four Chenáb districts of the Ráwalpindi Division. Before expressing a final opinion upon the merits of the proposal it would be necessary for the Financial Commissioner to study the voluminous correspondence which exists on the subject. But, as at present advised, he entirely agrees with you in your preference for fixed boundaries, and expressed an opinion to that effect in discussing the Alluvion and Diluvion Bill many years ago. The question has given rise to much conflict of opinion in the past. But the objectors for the most part based their objections upon the difficulty or impossibility of accurately restoring a fixed boundary on the spot with the untrained agency at our disposal. Since then matters have changed. The patwári agency is more highly trained; while a system of village survey has been introduced which will make the reproduction of a boundary with the help of permanent bench marks a comparatively simple task. Mr. Ibbetson thinks therefore that the matter is fairly open to reconsideration; and no time could be better than the present when seven riverain districts are under settlement and the settlements of two more are about to expire.

5. But legislative sanction will be needed; and that, if asked for at all, would probably be asked for for the Province as a whole, to be acted upon from time to time when revision of records is in progress. And before proposing legislation to the Government of India the Punjab Government would probably wish once more to collect opinions, to make some inquiry as to the light in which the people would regard the change, and to collect a few of the worst instances from each district of actual hardship caused by the deep-stream rule. Before entering upon such a general inquiry, it will be right to ascertain whether His Honor the Lieutenant-Governor approves of the question being re-opened, and Government will be addressed accordingly.

6. Meanwhile it will be well that one simple measure should be adopted which will not involve any material increase of labour or expenditure, and which will render the present survey and future reproduction of fixed boundaries a simple task, if their introduction

should at any time be decided on. It is to take care that the base lines laid down on the two opposite sides of a river for the purpose of the square survey are parallel to each other. This has been done by Messrs. Francis and Walker in Mamdot and Kasúr (see paragraph 27 of Land Revenue Report for 1888-89). It is not known how parallelism was ensured; but this could easily be ascertained by the Commissioner. The use of a prismatic compass is the simplest means that suggests itself to Mr. Ibbetson. When the survey of a riverain village is already complete, or well advanced, as will often be the case, it is not at all necessary to interfere with the work on its original basis. All that is necessary is to lay down the new base line, marking it well with permanent marks out of the reach of river action, to show it clearly on the map, and to run out squares from it to the edge of the present deep-stream. The new base line and squares could be shown in broken lines to distinguish them from the old ones.

No. 767, dated Lahore, 10th December 1890.

From—M. W. Fenton, Esquire, Under-Secretary to Government, Punjab, Revenue Department,

To—The Senior Secretary to the Financial Commissioner, Punjab.

In reply to Mr. Fagan's letter No. 726, dated 30th October 1890, on the subject of the boundaries of riverain villages, I am directed to say that the Lieutenant-Governor has no objection to the institution of inquiries and re-opening of discussion on the subject if the Financial Commissioners wish. Discussion should, however, be limited to the questions immediately in view, *viz.*,—

(*a*) Is it desirable anywhere on the Punjab rivers where a fluctuating boundary is the present rule to substitute fixed for fluctuating boundaries between villages?

(*b*) If so, what measures should be taken for the purpose?

(*c*) How are these measures likely to be regarded by the people affected by them?

No. [illegible], dated 18th April 1891.

From—The Commissioner and Superintendent, Ráwalpindi Division.

To—The Junior Secretary to Financial Commissioner, Punjab.

With reference to your No. 6870, dated 30th October 1890, to my address (page 1, printed correspondence headed "boundaries of riverain villages on the Chenáb"), I have the honor to submit a copy of correspondence marginally noted.

1. No. $\frac{183}{3610}$, dated 17th November 1890, to all Settlement Collectors.
2. Captain Davies' reply No. 295, dated 4th February 1891.
3. Mr. O'Dwyer's reply No. 94, dated 2nd March 1891.

2. It shows I think (1) that the Financial Commissioner's assertion (para. 2) that land found between the threads of two deep streams necessarily belongs to Government was erroneous, and (2) that the assumption put forward by Captain Davies, but regarded by Financial Commissioner as "exceedingly doubtful" (para. 3) that lost estates reforming *in situ* revert to former owners, was correct.

3. The correspondence affords new evidence were it wanted of the paradoxical nature of the middle thread and the soundness of a fixed boundary rule.

No. $\frac{183}{3610}$ dated 17th November 1890.

From—S. S. Thorburn, Esquire, Commissioner and Superintendent, Ráwalpindi Division,

To—All Settlement Collectors, Ráwalpindi Division.

Forwards copy of a letter No. 6870 of 30th October 1890, from Junior Secretary to Financial Commissioner, Punjab, with copy of printed enclosure, for information and guidance, with reference to para. 6.

2. As to the Financial Commissioner's remark in para. 2 in which he says that land between the threads of two deep streams belongs to Government, Commissioner is prepared to make a further reference should Settlement Collectors find that such land does not necessarily belong to Government. Commissioner is inclined to think Mr. Ibbetson's assumption too sweeping.

3. As to para. 3 of Financial Commissioner's letter, Commissioner draws attention to para. 8 of Captain Davies' No. 96, dated 11th June 1890, and to para. 5 of Commissioner's No. 399 and No. 400, dated 8th July 1890. The assumption put forward by Captain Davies for himself and other Settlement Collectors should be proved, because if it is correct, Commissioner thinks that a case for a further representation is made out.

No. 295, dated 4th February 1891.

From—Captain H. S. P. Davies, Settlement Collector, Gujrát.

To—The Commissioner and Superintendent, Ráwalpindi Division.

I have the honor to reply to your letter No. $\frac{163}{3810}$, dated 17th November 1890, regarding reyerain villages.

2. In his letter No. 6870, dated 30th October 1890, the Financial Commissioner lays down that the middle thread of the deep streams is the true boundary between villages on opposite sides of the Chenáb river, and if there are two deep streams, the middle thread of each, the land between belonging to Government. I consider it necessary to point out that in this district the land between two deep streams has never been taken up by Government, and that the assertion of such a right makes it uncertain what practice should be followed in future.

3. As a matter of fact Government new land is very seldom thrown up between two deep streams which are generally *governed* when the river is changing its course from one side to the other, leaving land previously thrown up in between. But if all land between two deep streams is to be considered the property of Government, it is possible to imagine land one day the property of the people, and the next day of Government. The order does not state whether if the land is recorded as Government property it will always remain the property should one of the deep streams disappear, nor whether if the land is washed away and then re-appears it will again be considered the property of Government.

4. But it is unnecessary to discuss these difficulties at present as the rules on the Chenáb, which have presumably been sanctioned by Government, govern such cases These rules are printed in para. 178 of the Gujrát Revised Settlement Report. Rule 4 states an island thrown up between two main streams to be divided equally between opposite banks.

5. In para. 3 of his letter the Financial Commissioner states that he cannot accept the assumption that when a village has been entirely washed away and subsequently land appears in its place, that that land belongs to the owners of the village washed away. He also states that if the alleged rights are undoubtedly recognised by Government custom and duly attested, they would properly find a place in the record of riverain customs.

6. In para. 178 of the Gujrát Revision Settlement Report which purposes to record the right and usages of river villages, I find "If an entire estate is washed away and is again thrown up in the same place they will conform to the orders of Government. If an estate in rear of the one washed away suffer by diluvion, it is only entitled to receive by accretion up to its former boundary, as shown in the Surveyor's map." The working of this custom by itself would cause land thrown up on the site of a village entirely washed away to become the property of the owners of the village washed away as villages in rear would be barred from claiming it.

The Financial Commissioner also considers that the limit of time should extend to the memory of man and not simply for the past 30 years. The disadvantage of this would be that boundaries would have to be set up according to the memories of interested persons and not according to the map whose correctness is acknowledged by all parties.

7. An enquiry has been made regarding the present custom where villages have been entirely carried away and subsequently land has been thrown up on their site. There are three cases in which the recorded custom has been followed. The village of Daurarabi was entirely washed away, land re-appeared in 1889, and although another village claimed it was given to the original owners. Sultánpura was non-existent at the time of Revised Settlement, and a condition was recorded that when the land re-appeared it should be given to its original owners according to the maps of Regular Settlement. The village of Rampur was carried away, on the re-appearance of the land the village of Govindpura claimed it, but failed in their suit and the original owners obtained possession.

8. As the whole question regarding these villages has led to the discussion regarding fixed boundaries on riverain villages being re-opened, I consider that as there are fixed boundaries recognized by the villages as far as possible their fixed boundaries should be retained or else the difficulties in a decision will increase. For if a village is able just to touch the strip of land remaining at right angles to the stream and probably extending for miles, whereas now it is satisfied with the original boundary up to which possession is taken when the stream returns.

No. 94, dated 2nd March 1891.

From—M. F. O'Dwyer, Esquire, Settlement Collector, Gujránwála.

To—The Commissioner and Superintendent, Rawalpindi Division.

I have the honor to submit a reply to certain questions raised in your Circular No. $\frac{163}{3810}$, dated 17th November 1890, *viz.*, (1) whether the land between the threads of two deep streams belongs to Government; (2) whether the land of alluvial villages shown in the survey maps of 1885 but since lost by diluvion will if reformed revert in proprietary rights to the original owners?

NEW SERIES—No. 15.

SELECTIONS FROM THE RECORDS

OF THE OFFICE OF THE

FINANCIAL COMMISSIONER, PUNJAB.

Published by Authority.

No. 41.

CONTENTS.

Lahore:
THE "CIVIL AND MILITARY GAZETTE" PRESS,
Contractors to the Punjab Government.

1892.